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E-Filed On 3-1-10**UNITED STATES BANKRUPTCY COURT****FOR THE DISTRICT OF NEVADA**

In re:

BLACK GAMING, LLC

- ☐ Affects this Debtor.
- ☒ Affects all Debtors.
- ☐ Affects VIRGIN RIVER CASINO CORPORATION
- ☐ Affects B & BB, INC.
- ☐ Affects R. BLACK, INC.
- ☐ Affects RBG, LLC
- ☐ Affects CASABLANCA RESORTS, LLC
- ☐ Affects OASIS INTERVAL OWNERSHIP, LLC
- ☐ Affects OASIS INTERVAL MANAGEMENT, LLC
- ☐ Affects OASIS RECREATIONAL PROPERTIES, INC.

Case No.: BK-10-13301-BAM; Chapter 11  
 Jointly Administered with:

10-13303	Virgin River Casino Corporation
10-13305	B & BB, Inc.
10-13306	R. Black, Inc.
10-13307	RBG, LLC
10-13309	Casablanca Resorts, LLC
10-13310	Oasis Interval Ownership, LLC
10-13311	Oasis Interval Management, LLC
10-13312	Oasis Recreational Properties, Inc.

Date: March 3, 2010  
 Time: 9:30 a.m.  
 Courtroom #3

**OMNIBUS DECLARATION OF SEAN P. MCKAY  
 IN SUPPORT OF THE DEBTORS' FIRST DAY MOTIONS**

I, Sean P. McKay, hereby declare as follows:

1. I am over the age of 18 and am mentally competent. I have personal knowledge of the facts in this matter and if called upon to testify, could and would do so. I make this declaration (the "Declaration") in support of the motions and applications requesting various types of immediate relief (collectively, the "First Day Motions") filed by the Debtors (as hereinafter defined) in their respective bankruptcy cases (collectively, the "Bankruptcy Cases").<sup>1</sup>

...

<sup>1</sup> All capitalized terms not otherwise defined herein shall have those meanings ascribed to them in the relevant First Day Motions.

2. The debtors in these Bankruptcy Cases are as follows: Black Gaming, LLC, a Nevada limited liability company ("Black Gaming"), Virgin River Casino Corporation, a Nevada corporation ("Virgin River"), B & BB, Inc. d/b/a Virgin River Hotel Casino & Bingo, a Nevada corporation ("BBB"), R. Black, Inc., a Nevada corporation ("Black Inc."), RBG, LLC d/b/a CasaBlanca Resort & Casino, a Nevada limited liability company ("RBG"), CasaBlanca Resorts, LLC d/b/a Oasis Hotel, Casino, Spa and Golf, a Nevada limited liability company ("CasaBlanca Resorts"), Oasis Interval Ownership, LLC, a Nevada limited liability company ("Oasis Own"), Oasis Interval Management, LLC, a Nevada limited liability company ("Oasis Mgmt"), and Oasis Recreational Properties, Inc., a Nevada corporation ("Oasis Rec," and together with Black Gaming, Virgin River, BBB, Black Inc., RBG, CasaBlanca Resorts, Oasis Own, and Oasis Mgmt, the "Debtors").

3. My involvement with the Debtors began in July of 2005. From July 2005 through January 2008, I served as Corporate Controller to Virgin River, RBG, and BBB. Since January 2008, I have served as the Debtors' Chief Accounting Officer, and most recently as their Chief Financial Officer. Prior to my employment with the Debtors, from May 2002 to July 2005, I was employed by Avery Dennison, most recently as the General Accounting Manager. From 2000 to 2002, I was employed by the accounting firm of Arthur Andersen, LLP in the firm's Las Vegas office providing audit services to the hospitality and gaming industry.

4. Except as otherwise indicated, all of the facts set forth in this Declaration are based upon my personal knowledge of the Debtors' operations and finances, information learned from my review of relevant documents, and information supplied to me by other members of Debtors' management and Debtors' various business and legal advisors. If called upon to testify as to the content of this Declaration, I could and would do so.

5. This Declaration is filed on the same date that each of the Debtors have filed voluntary petitions for relief under Chapter 11, Title 11 of the United States Code (the "Petition Date").<sup>2</sup> The Debtors have filed their respective First Day Motions to allow them, individually

<sup>2</sup> Unless otherwise expressly stated herein, all subsequent references to Chapters or Sections shall refer to 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code") and all Rule references shall refer to the Federal Rules of Bankruptcy

1 and collectively, to efficiently and effectively operate in their Bankruptcy Cases. The relief  
 2 sought in the First Day Motions is critical to the Debtors' business operations, will allow for a  
 3 comprehensive and smooth transition into Chapter 11, and will ensure that the Debtors are  
 4 provided the opportunity to reorganize successfully.

5 6. This Declaration is intended to provide the Court and parties-in-interest with  
 6 background information regarding the Debtors, as well as the context and evidentiary support for  
 7 the initial relief sought by the Debtors. Accordingly, the Declaration is organized into two parts:  
 8 (i) background information, including, (A) an overview of Debtors' business, their prior and  
 9 current organizational structures, their assets and operations, and their prepetition equity and  
 10 management structure, (B) the Debtors' prepetition capital structure, and (C) the events leading  
 11 up to these Bankruptcy Cases; and (ii) an explanation of the relief sought in the First Day  
 12 Motions, as well as certain of the factual basis necessitating the requested relief, which relief is  
 13 critical to the Debtors' reorganization.

14 **I.**  
 15 **GENERAL BACKGROUND INFORMATION**

16 **A. The Debtors' Businesses.**

17 **1. Corporate Structure.**

18 7. Robert R. Black, Sr. as the trustee of the Robert R. Black, Sr. Gaming Trust u/a/d  
 19 May 24, 2004 (the "Black Trust") owns 99.03% of Black Gaming's membership interest and  
 20 Glenn Teixeira<sup>3</sup> owns the remaining 0.97%.

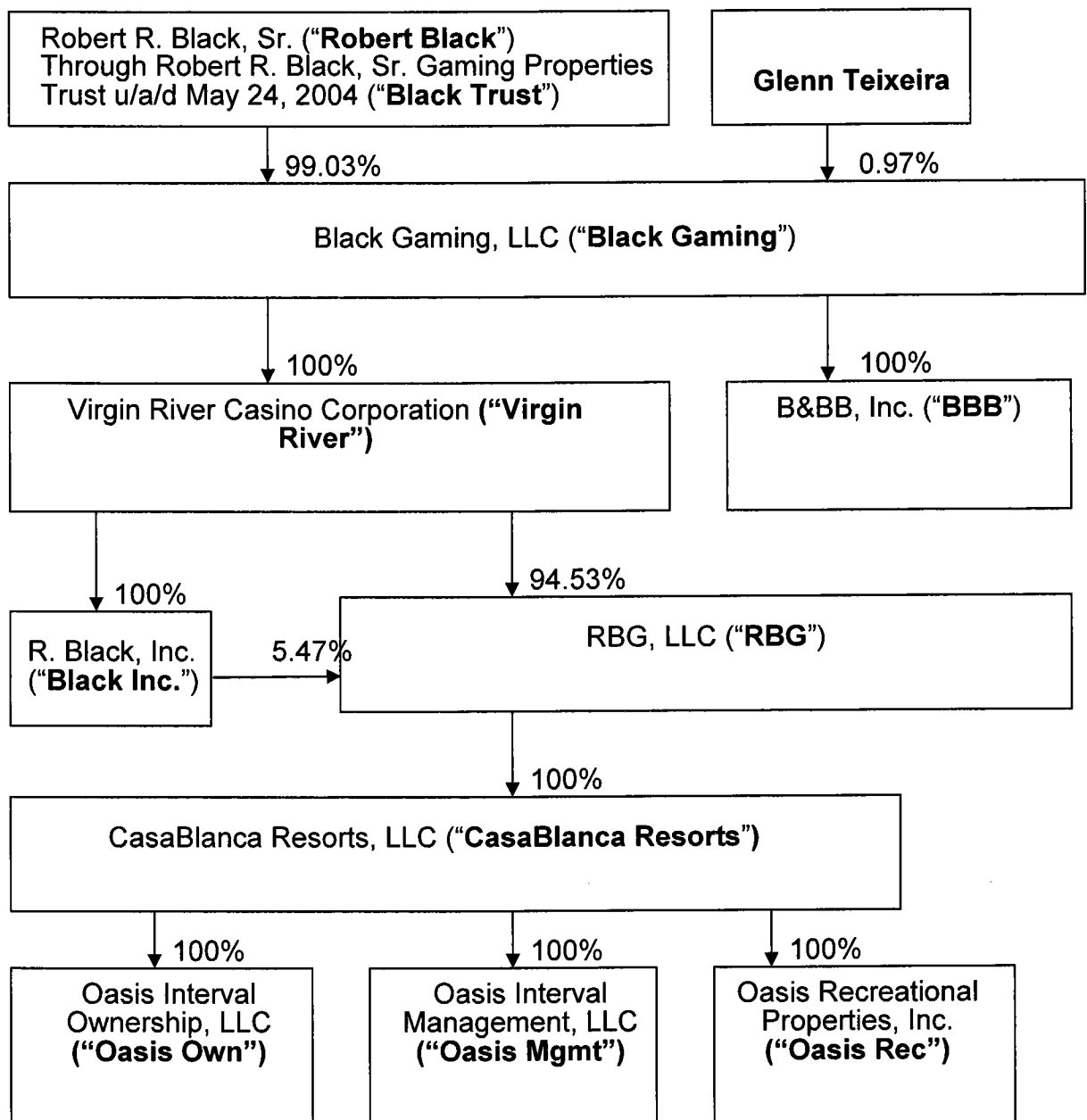
21 8. Black Gaming is the sole shareholder of Virgin River and BBB, and solely owns,  
 22 either directly or indirectly, Black Inc., RBG, CasaBlanca Resorts, Oasis Own, Oasis Mgmt, and  
 23 Oasis Rec.

24  
 25 \_\_\_\_\_ (continued)  
 26 Procedure, 1001-9037 (the "Bankruptcy Rules").

27 <sup>3</sup> In 2004, the Black Trust completed a buy-out of all but one of the prior investors in the Casino businesses (as  
 28 defined herein), with the sole exception of Mr. Teixeira, who decided, in his sole judgment, not to sell his equity  
 interest. Other than holding the 0.97% equity interest in Black Gaming, Mr. Teixeira's only involvement with the  
 Debtors is through his provision of certain marketing services to the Debtors.

9. Since December 31, 2006, Black Gaming has been the sole shareholder of Virgin River and BBB. BBB does not hold any subsidiary interests. Virgin River holds interests in two subsidiaries; it is the sole shareholder of Black Inc. and further holds a 94.53% membership interest in RBG. The remaining 5.47% membership interest in RBG is held by Black Inc. RBG is the sole member of CasaBlanca Resorts, which is the sole member of Oasis Own and Oasis Mgmt, and the sole shareholder of Oasis Rec. The following chart illustrates the relationship among Black Gaming and its direct and indirect subsidiaries.

#### BLACK GAMING ORGANIZATIONAL CHART



1           **2. The Pre-December 31, 2006 Corporate Structure.**

2           10. Black Gaming was organized as a Nevada limited liability company on August 4,  
3 2006 in anticipation of modifying BBB's and Virgin River's organizational structure through a  
4 holding company reorganization (the "Holding Company Reorganization"). The Holding  
5 Company Reorganization was completed to enable the preparation of one comprehensive  
6 financial statement and public filing with the United States Securities and Exchange Commission  
7 (the "SEC").<sup>4</sup> This reorganization, which included a transfer of BBB and Virgin River's shares  
8 for membership interests in Black Gaming was completed on December 31, 2006. As a result of  
9 this reorganization, the Black Trust owns a 99.03% membership interest in Black Gaming and  
10 Glenn Teixeira owns the remaining 0.97%.<sup>5</sup>

11           11. As a result of the Holding Company Reorganization, BBB and Virgin River  
12 became Black Gaming's wholly-owned subsidiaries that wholly own, directly or indirectly, the  
13 remaining Debtors.

14           **3. An Overview Of The Debtors' Assets.**

15           12. As indicated above, Black Gaming is a Nevada limited liability company  
16 organized on August 4, 2006 that serves as a holding company for the entities that own and  
17 operate the Casinos (as defined herein) and the Debtors' related businesses.

18           13. Virgin River, a Nevada corporation incorporated on July 1, 1988, owns the real  
19 property in Mesquite, Nevada, upon which the Virgin River Casino & Bingo (the "Virgin River  
20 Casino") is located. Virgin River also owns the real property upon which the Virgin River  
21 Convention Center, formerly known as the Mesquite Star Hotel and Casino (the "Convention  
22 Center"), is located as well as the personal property, including furniture and fixtures and  
23 leasehold improvements located within the Convention Center.

24           14. BBB, a Nevada corporation incorporated on December 7, 1989, operates the  
25 Virgin River Casino in Mesquite, Nevada, and owns certain personal property, including

26 <sup>4</sup> While Black Gaming is not a publicly registered company, as more fully set forth below, portions of its debt is  
27 publicly-registered.

28 <sup>5</sup> A full description of the Holding Company Reorganization is set forth in Black Gaming's filings with the SEC  
available at [www.sec.gov](http://www.sec.gov).

1 furniture and fixtures, leasehold improvements, and gaming equipment located within the Virgin  
2 River Casino.

3 15. Black Inc. is a Nevada corporation incorporated on February 19, 1997 that serves  
4 solely as a holding company for a 5.47% membership interest in RBG.

5 16. RBG, a Nevada limited liability company organized on February 18, 1997, owns  
6 the real property in Mesquite, Nevada, upon which the CasaBlanca Hotel & Casino (the  
7 "CasaBlanca Casino") is located, as well as the personal property, including furniture and  
8 fixtures, leasehold improvements, and gaming equipment located in the CasaBlanca Casino.  
9 RBG also owns approximately 34.4 acres located southwest of the CasaBlanca Casino's golf  
10 course, as well as certain timeshare intervals.

11 17. CasaBlanca Resorts, a Nevada limited liability company organized on February 6,  
12 2001, owns the real property in Mesquite, Nevada, upon which the Oasis Hotel, Casino, Spa and  
13 Golf (the "Oasis Casino")<sup>6</sup> is located, as well as all of the personal property, including furniture  
14 and fixtures, leasehold improvements, and gaming equipment located in the Oasis Casino.  
15 CasaBlanca Resorts additionally solely owns the following three subsidiaries - Oasis Own, Oasis  
16 Mgmt, and Oasis Rec

17 18. Oasis Own, a Nevada limited liability company, was organized on March 31,  
18 2001 for purposes of holding the remaining timeshare interests at the Oasis Casino.

19 19. Oasis Mgmt, a Nevada limited liability company, was organized on March 31,  
20 2001. Oasis Mgmt provides certain services with regard to the timeshares located at the Oasis  
21 Casino and the CasaBlanca Casino.

22 20. Oasis Rec, a Nevada corporation, was formed on March 23, 2001. Oasis Rec  
23 owns the gun club, motocross facilities,<sup>7</sup> a deli, and the Palms Golf Course, all of which are  
24 located in Arizona.

25 . . .

26 <sup>6</sup> The Oasis Casino, the Virgin River Casino, and the CasaBlanca Casino are collectively referred to herein as the  
27 "Casinos."

28 <sup>7</sup> The motocross facilities are leased by CasaBlanca Resorts to Dirt Sports, a Nevada limited liability company  
pursuant to a lease commencing July 1, 2009 and terminating June 30, 2014.

1           **4. The Debtors' Operations.**

2           21. The Debtors collectively form a diversified gaming company owning and  
3 operating three<sup>8</sup> of the four casino hotels located in Mesquite, Nevada, two championship golf  
4 courses, a full-service spa, a bowling center, a gun club, both gourmet and casual restaurants, and  
5 banquet and conference facilities. The Debtors' revenues are primarily derived from three  
6 sources: (i) gaming revenues, which include revenues from slot machines, table games, live  
7 keno, race and sports book wagering, poker and bingo; (ii) hotel room revenues; and (iii) food  
8 and beverage revenues.

9           22. As of the Petition Date, the Casinos contained an aggregate of approximately  
10 2,100 hotel rooms, 97 timeshare units located at the Oasis Casino and CasaBlanca Casino, 1,579  
11 slot machines, and 40 table games.

12                   a.     The CasaBlanca Casino.

13           23. The CasaBlanca Casino is a full-service entertainment and resort destination  
14 located off of Interstate 15 in Mesquite, Nevada. The CasaBlanca Casino targets middle-market  
15 guests looking for a high-quality gaming experience in a full-service resort environment and a  
16 value alternative to Las Vegas, Nevada. The CasaBlanca Casino offers approximately 472 tower  
17 rooms (including 24 suites) and 24 timeshare units. The approximately 27,000 square foot  
18 casino offers approximately<sup>9</sup> 792 video poker and slot machines, 24 table games, a full-service  
19 race and sports book, lounge entertainment, and dancing.

20           24. The CasaBlanca Casino offers various resort and entertainment amenities,  
21 including a golf club, a full-service spa, tennis courts, a lagoon swimming pool with a waterfall  
22 and slide, a hot tub, a sand volleyball court, and an arcade. In addition, the CasaBlanca offers a  
23 320-seat buffet restaurant, a 180-seat 24-hour café, a 136-seat fine dining restaurant, an ice  
24 cream parlor, a Starbucks® coffee outlet, a gift shop, a 10,000 square foot banquet and

25 \_\_\_\_\_  
26 <sup>8</sup> As discussed more fully herein, the Oasis Casino effectively closed in May 2009, thereby leaving only three  
operating casinos in Mesquite, Nevada, two of which are owned and operated by the Debtors.

27 <sup>9</sup> As discussed more fully herein, upon the reduced operations and ultimate closure of the Oasis Casino, certain of  
28 the slot and video poker machines were moved from the Oasis Casino to the CasaBlanca Casino and the Virgin  
River Casino.



1 conference facility, and a 500-seat showroom. The CasaBlanca Casino is situated on an  
 2 approximately 43-acre fee simple site, containing a parking lot with a capacity for approximately  
 3 1,940 cars, as well as a 45-unit full-service R.V. park.

4 b. The CasaBlanca Golf Club.

5 25. Approximately one mile from the CasaBlanca Casino, situated on a 221-acre site,  
 6 is the CasaBlanca Golf Club featuring an 18-hole, 7,011-yard championship course designed by  
 7 Cal Olson. The land on which the CasaBlanca Golf Club is located is leased by RBG from  
 8 River View Limited Liability Company pursuant to a 99-year lease that expires in June of 2094  
 9 (the "CasaBlanca Golf Club Lease"). As of the Petition Date, the CasaBlanca Golf Club Lease is  
 10 current and not in default.

11 26. RBG additionally owns approximately 34 acres of unimproved land near the  
 12 CasaBlanca Golf Club.

13 c. The Virgin River Casino.

14 27. The Virgin River Casino is located off Interstate 15 in Mesquite, Nevada, across  
 15 the highway from the Convention Center. The Virgin River Casino generally attracts local  
 16 customers and drive-in middle-market customers. The Virgin River Casino has 717 guest rooms,  
 17 including 6 suites, and a 36,000 square foot casino with approximately<sup>10</sup> 771 video poker and  
 18 slot machines, 16 table games, a full-service race and sports book, a 183-seat bingo parlor, poker  
 19 tables, and live keno.

20 28. The Virgin River Casino offers various resort and entertainment amenities,  
 21 including swimming pools and hot tubs, a 24-lane state-of-the art bowling center, an arcade, and  
 22 a lounge for entertainment and dancing. In addition, the Virgin River Casino offers a 182-seat  
 23 24-hour café, a 178-seat buffet restaurant, a Starbucks® coffee outlet, and a gift shop. The  
 24 Virgin River Casino is situated on an approximately 32-acre fee simple site, containing a parking  
 25 lot with a capacity for 1,650 cars.

26 . . .

27 <sup>10</sup> As previously stated, upon the reduced operations and ultimate closure of the Oasis Casino, certain of the slot and  
 28 video poker machines were relocated from the Oasis Casino to the CasaBlanca Casino and the Virgin River Casino.



1           29. Virgin River also owns approximately 31 acres of unimproved land adjacent to  
2 the Virgin River Casino, which land was acquired to permit future expansion of the Virgin River  
3 Casino.

4                   d. The Convention Center.

5           30. The Convention Center is situated on an approximately 14-acre site located off  
6 Interstate 15 and the East Mesquite Boulevard interchange in Mesquite, Nevada. The  
7 Convention Center was acquired out of its prior owner's bankruptcy proceeding in November  
8 2000.<sup>11</sup> The Convention Center has 12,000 square feet of potential gaming space and 210 hotel  
9 rooms. The Convention Center is presently utilized as a special event facility and for overflow  
10 hotel traffic from the Casinos. Black Gaming does not hold and has not yet sought a gaming  
11 license to operate a casino at the Convention Center. Black Gaming will apply for a gaming  
12 license at the Convention Center if it decides to operate a casino at the Convention Center.

13           31. The Convention Center provides a competitive advantage in the Mesquite market  
14 as it allows flexibility to meet market demand and to maintain the Debtors' market share in the  
15 future on a cost-effective basis.

16                   e. The Oasis Casino.

17           32. Prior to December 5, 2008, the Oasis Casino was a full-service entertainment and  
18 resort destination located off Interstate 15 in Mesquite, Nevada, across Mesquite Boulevard from  
19 the CasaBlanca Casino. Due to deteriorating economic conditions, on December 5, 2008,  
20 operations at the Oasis Casino were significantly reduced.<sup>12</sup> Under the initially reduced  
21 operations, the Oasis Casino offered 144 video poker and slot machines, as well as various resort  
22 and entertainment amenities, including golf at the Palm Golf Course, swimming pools and hot  
23 tubs, tennis courts, an arcade, a go-kart track, and a miniature golf range. Due to the continued  
24 deterioration of economic conditions, in May 2009, the Oasis Casino subsequently further  
25

26 <sup>11</sup> At the time of acquisition, the Convention Center had a gourmet restaurant, a cocktail lounge with a performance  
27 stage, a coffee shop, an arcade, and a gift shop, none of which are currently in operation.

28 <sup>12</sup> Prior to December 5, 2008, there were full scale operations at the Oasis Casino, offering approximately 900 rooms  
currently utilized for overflow hotel needs.

1 reduced operations to 16 video poker and slot machines and golf course operations.<sup>13</sup> The Oasis  
 2 Casino is situated on an approximately 26-acre fee simple site, containing a parking lot with a  
 3 capacity for approximately 1,800 cars as well as an 80-unit full-service R.V. park.

4 f. The Oasis Recreational Facility.

5 33. Approximately four miles from the Oasis Casino is the Palms Golf Course  
 6 featuring an 18-hole, 7,008 yard championship course designed by Arnold Palmer. The scenic  
 7 Palms Golf Course straddles the Nevada/Arizona border. A portion of the course is located on  
 8 property leased by Oasis Rec from the State of Arizona pursuant to a 7-year lease commencing  
 9 on May 13, 2008.

10 34. The Oasis Ranch and Gun Club encompasses over 1,000 acres of farmland, game  
 11 pasture, and river bottom and offers ten stations on a sporting clay course, two trap and skeet  
 12 fields with 15 stands, and gun safety classes, plus horseback riding, motocross, and hayrides.

13 g. The Timeshares.

14 35. The Debtors are involved with three different timeshare projects, two of which are  
 15 located at the Oasis Casino - The Grand Destinations Vacation Club (Mesquite) (the "Grand  
 16 Destinations") and the Peppermill Palms at Mesquite (the "Peppermill Palms") - and one of  
 17 which is located at the CasaBlanca Casino - the CasaBlanca Vacation Club.

18 36. The Peppermill Palms and the CasaBlanca Vacation Club have been turned over  
 19 to their respective owners associations to manage and operate. The Grand Destinations  
 20 anticipates completing its conversion to its owners association in 2010.

21 (i) The Grand Destinations.

22 37. The Grand Destinations is a deeded property<sup>14</sup> comprised of 34 one-bedroom and  
 23 two-bedroom units, which units are located in a parceled building referred to internally as  
 24 Building 9, which building is part of the larger Oasis Casino property.

25  
 26 <sup>13</sup> The reduction in operations affected approximately 147 of the Debtors' 1,700 employees and was completed by  
 July 19, 2009

27 <sup>14</sup> Unlike "right to use" timeshares, a deeded timeshare means that each individual owner who purchases one or  
 28 more intervals owns a fee simple undivided interest in the real property with the right to use an unspecified unit in  
 the project of a particular unit type.

38. The Grand Destinations has approximately 846 owners, with 2,498 intervals owned. Oasis Own owns 55 additional intervals. The timeshare intervals may be purchased either by: (1) the immediate payment of the purchase price at closing; or (2) through carry-back financing, whereby the purchase price, together with interest, is paid to Oasis Own over 84 consecutive months, which payments are memorialized by a promissory note and secured by a deed of trust recorded against the purchased undivided ownership interest. As of the Petition Date, the approximate sum due and owing to Oasis Own under such promissory notes is approximately \$195,515.

39. The Grand Destinations Owners Association (Mesquite) (the "GD Owners Association") was incorporated as a nonprofit corporation in or about November of 1994. Each owner of an annual timeshare interval owns a 1/3,120<sup>th</sup> fee simple interest in the Grand Destinations<sup>15</sup> and a right to use the common areas and certain amenities within the Oasis Casino to the extent that such services and amenities are also provided to the Oasis Casino hotel guests.<sup>16</sup>

40. Pursuant to a management agreement with the GD Owners Association, Oasis Mgmt provides management services to the Grand Destinations in exchange for a management fee.

(ii) The Peppermill Palms.

41. The Peppermill Palms is a deeded property comprised on 39 one-bedroom and studio suites,<sup>17</sup> which are located in a parceled building referred to internally as Building 8, with less than half of the building having been dedicated to such timeshares, which building is also part of the larger Oasis Casino property.

<sup>15</sup> Each alternate year timeshare owner owns an undivided 1/6,240<sup>th</sup> fee simple interest in the Grand Destinations.

<sup>16</sup> Pursuant to various agreements by and between the developer and the GD Owners Association, the members of the GD Owners Association have a limited and non-exclusive license to use and enjoy certain recreational and golf facilities located at the Oasis Casino for so long as such amenities are also available for use by the Oasis Casino hotel guests, and a corresponding non-exclusive easement over such property.

<sup>17</sup> Combining a one-bedroom and a studio suit results in a two-bedroom unit.

44. The Peppermill Palms Property Owners Association, Inc. ("PPOA") is incorporated as a nonprofit corporation. Each owner of an annual timeshare interval owns a 1/1,989th fee simple interest in the Peppermill Palms<sup>19</sup> and a right to use the common areas and certain amenities within the Oasis Casino to the extent such services and amenities are also provided to the Oasis hotel guests.<sup>20</sup>

45. In January 2006, the PPOA entered into a service agreement with Oasis Mgmt pursuant to which it provides the PPOA managerial services, including without limitation housekeeping services, reservation services, and maintenance services. PPOA has retained an unaffiliated entity, Vacation Resorts International, to provide all administrative and financial services.

46. The CasaBlanca Vacation Club was incorporated as a nonprofit, nonstock corporation in or about November of 1997. The CasaBlanca Vacation Club offers to its members a 40-year right to use certain units located at the CasaBlanca Casino, and related amenities,<sup>21</sup> rather than a fee simple interest in the property.

<sup>20</sup> Pursuant to various agreements by and between the developer and the PPOA, the members of the PPOA have a limited and non-exclusive license to use and enjoy certain recreational facilities, a corresponding non-exclusive easement over such property, and the right to use and enjoy the golf courses and related services.

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1           47. Pursuant to the CasaBlanca Vacation Club's bylaws and rules and regulations, a  
 2 managing agent is responsible for the management and operations of the CasaBlanca Vacation  
 3 Club's membership program.<sup>22</sup> Diversified Interests, a Nevada corporation<sup>23</sup> is retained by the  
 4 CasaBlanca Vacation Club as its managing agent. Oasis Mgmt has been retained by Diversified  
 5 Interests to provide certain of the services required of the managing agent. In exchange for  
 6 providing these services, Oasis Mgmt receives a fee.

7           48. Additionally, RBG continues to provide various services, including without  
 8 limitation maid service, emergency repair and maintenance, and front desk and related guest  
 9 services, for which RBG receives a portion of the assessments paid by the CasaBlanca Vacation  
 10 Club's members.

11           49. Each membership in the CasaBlanca Vacation Club is evidenced by a  
 12 membership certificate issued to the member upon full-payment of the purchase price for the  
 13 membership under a membership purchase agreement, which agreement serves as evidence of  
 14 the membership interest until such agreement is paid in full.

15           50. The CasaBlanca Vacation Club's memberships were initially owned by RBG.  
 16 Currently, there are approximately 1,036 owners of membership interests, with 1,269.5 total  
 17 intervals being owned. RBG presently owns 76.5 intervals for which purchase agreements have  
 18 not been executed.

19           51. The majority of such membership sales are financed through RBG, with title to  
 20 such financed memberships remaining in RBG as security for the purchasers' obligations under  
 21 the Membership Purchase Agreement until such obligations are fulfilled. As of the Petition  
 22 Date, the approximate sum due and owing to RBG under the Membership Purchase Agreements  
 23 is approximately \$181,404.

24 \_\_\_\_\_ (continued)

25 CasaBlanca Vacation Club certain privileges relating to the CasaBlanca Golf Course, including golf-related  
 26 discounts, a limited and non-exclusive license to use and enjoy certain recreational located at the CasaBlanca Casino  
 facilities on substantially the same terms, subject to certain discounts for certain platinum members, as guests of the  
 CasaBlanca Casino, and a corresponding non-exclusive easement over such property.

27 <sup>22</sup> The CasaBlanca Vacation Club also owns all of the furniture and fixtures and other personal property within the  
 suites that are part of the CasaBlanca Vacation Club's membership program.

28 <sup>23</sup> Diversified Interest is solely owned by Mr. Black.

1           **5. The Debtors' Prepetition Equity And Management Structure.**

2           52. As previously stated, the Black Trust owns a 99.03% membership interest in  
3 Black Gaming, and thereby effectively owns, directly or indirectly, 99.03% of the Debtors. The  
4 remaining 0.97% is owned by Glenn Teixeira.

5           53. Since August 2006, Robert R. Black, Sr. has been the sole manager of Black  
6 Gaming. Since December 2004, Mr. Black has been the Chairman of the Board, Chief Executive  
7 Officer ("CEO"), and President of Virgin River and BBB. Mr. Black has also been the sole  
8 manager of RBG since February 1997.

9           54. Pursuant to his employment agreement, Mr. Black is employed as the CEO of  
10 Black Gaming with the duties, responsibilities, and authorities customarily associated with such  
11 position for other businesses of the same size and industry, together with any other duties as may  
12 be reasonably requested with regard to one or more of the other Debtors.

13           55. As previously stated, my involvement with the Debtors began in July 2005. From  
14 July 2005 through January 2008, I served as Corporate Controller to Virgin River, RBG, and  
15 BBB. Since January 2008, I have served as the Debtors' Chief Accounting Officer, and most  
16 recently as the Debtors' Chief Financial Officer. Prior to my employment with the Debtors, from  
17 May 2002 to July 2005, I was employed by Avery Dennison, most recently as the General  
18 Accounting Manager. From 2000 to 2002, I was employed by the accounting firm of Arthur  
19 Andersen, LLP in the firm's Las Vegas office providing audit services to the hospitality and  
20 gaming industry.

21           56. Between November 2007 and December 2008, Anthony Toti served as the  
22 General Manager of the CasaBlanca Casino and Director of Casino Operations for Black  
23 Gaming. Since December 2008, Mr. Toti has served as the Chief Operating Officer and Director  
24 of Casino Operations for Black Gaming. Mr. Toti has approximately twenty-eight years of  
25 experience in the gaming industry, most recently as the Director of Casino Operations at the  
26 Suncoast Hotel and Casino from October 2006 to October 2007. From July 2000 to October  
27 2006, Mr. Toti served as Casino Manager at the Suncoast Hotel and Casino. Pursuant to his  
28 employment agreement, Mr. Toti is employed as the Chief Operating Officer of Black Gaming

1 with the duties, responsibilities, and authorities customarily associated with such position for  
 2 other businesses of the same size and industry, together with any other duties as may be  
 3 reasonably requested, which may include duties for one or more of the other Debtors.

4 **6. Related Party Agreements.**

5 57. Prepetition, the Debtors' operations were conducted from their executive offices  
 6 located at 10777 W. Twain Avenue, Las Vegas, Nevada. The executed office space was leased  
 7 from Town Center Drive & 215, LLC, which is partially owned and managed by Mr. Black,  
 8 pursuant to an 84 month lease at a monthly rental rate of approximately \$11,508.00. However,  
 9 to reduce the Debtors' expenses, this lease was terminated prepetition and during the end of  
 10 February 2010, the Debtors relocated their executive offices to the CasaBlanca Casino located at  
 11 950 W. Mesquite Blvd., Mesquite, Nevada.

12 58. Virgin River Foodmart, Inc., a Nevada corporation ("Foodmart"), is owned by  
 13 former shareholders of Virgin River. Participants in the Casinos' slot club program are able to  
 14 redeem their points for gasoline at the Foodmart. Foodmart charges BBB, CasaBlanca Resorts,  
 15 or RBG the retail amount of gas purchased with such Debtor's player points. Charges associated  
 16 with the point redemption for gasoline at the Foodmart were approximately \$6,000 for the six  
 17 month period ending July 31, 2009 and approximately \$0 for the sixth month period ending  
 18 December 31, 2009.

19 **B. The Debtors' Prepetition Capital Structure.**

20 59. Commencing in 2004, the Debtors financed the contemplated renovation and  
 21 expansion of the Casinos,<sup>24</sup> as well as the buyout of the then-existing equity interests, in part, by  
 22 incurring additional long-term debt from the following three sources: (i) the Senior Credit  
 23 Facility, a revolving credit facility for up to \$15 Million, which is secured by a first position lien  
 24 on substantially all of the Debtors' real and personal property, including a first position lien on  
 25 66<sup>2</sup>/<sub>3</sub>% of the Black Trust's equity interest in Black Gaming and 100% of the equity interests of  
 26

27 <sup>24</sup> For instance, in 2004, the Debtors undertook to expand the Casablanca Casino with a 180-room hotel tower;  
 28 however, despite redrafting such architectural plans, the substantial rise in the price of commodities precluded the  
 construction of the additional tower.



Virgin River, RBG, and BBB; (ii) notes issued pursuant to the Senior Secured Indenture of which The Bank Of New York Mellon Trust Company, N.A. f/k/a/ The Bank of New York Trust Company, N.A. ("BNY") is the Senior Secured Indenture Trustee, in the aggregate principal amount at maturity of \$125 Million, which is secured by a second position lien on substantially all of the Debtors' real and personal property; and (iii) the Senior Subordinated Notes issued pursuant to the Senior Subordinated Indenture of which BNY is the Senior Subordinated Indenture Trustee, in the aggregate principal amount at maturity of \$66 Million, which are unsecured.

**1. The Senior Credit Facility.**

60. On December 20, 2004, BBB, CasaBlanca Resorts, RBG, Virgin River, Oasis Mgmt, Oasis Own, and Oasis Rec, as borrowers (the "Borrowers"), entered into the Credit Agreement (the "Credit Agreement") with Wells Fargo Capital Finance, Inc. f/k/a Wells Fargo Foothill, Inc. ("Wells Fargo"),<sup>25</sup> as the arranger and administrative agent for the Lender Group and Bank Product Provider,<sup>26</sup> thereby providing the revolving credit facility. The Senior Credit Facility authorizes the Borrowers to borrow up to the lesser of: (i) \$15 Million less the Letter of Credit Usage,<sup>27</sup> less the Bank Product Reserve<sup>28</sup>; or (ii) the Borrowing Base<sup>29</sup> less the Letter of

<sup>25</sup> Unless otherwise expressly stated herein, the term Wells Fargo shall solely refer to Wells Fargo in its capacity as the arranger and administrative agent for the Lender Group and the Bank Product Provider.

<sup>26</sup> The terms "Lender Group" and "Bank Product Provider" shall have the meanings ascribed to them in the Credit Agreement, as amended.

<sup>27</sup> "Letter of Credit Usage" was initially defined within the Credit Agreement to mean "of any date of determination, the aggregate undrawn amount of all outstanding Letters of Credit."

<sup>28</sup> "Bank Product Reserve" was initially defined within the Credit Agreement to mean "as of any date of determination, the lesser of (a) \$1.5 million, and (b) the amount of reserves that Agent has established (based upon the Bank Product Providers' reasonable determination of the credit exposure of Administrative Borrower and its Subsidiaries in respect of Bank Products) in respect of Bank Products then provided or outstanding."

<sup>29</sup> "Borrowing Base" was initially defined within the Credit Agreement to mean "as of any date of determination, the result of:

(a) the product of (i) 1.0 *multiplied* by (ii) the TTM EBTIDA for the most recently ended 12 month period for which financial statements have been delivered pursuant to Section 5.3, *minus*

(b) the sum of (i) the Bank Product Reserve, (ii) the Environmental Reserve, (iii) the Lien Reserve, and (iv) the aggregate amount of reserves, if any, established by Agent under Section 2.1(b)."

1 Credit Usage. A true and correct copy of the Credit Agreement without all referenced exhibits is  
2 attached hereto as Exhibit "1."

3 61. Contemporaneously with the execution of the Credit Agreement, the Borrowers  
4 and Wells Fargo entered into the Security Agreement. As more fully described in the Security  
5 Agreement, the Security Agreement grants a first priority security interest in substantially all of  
6 the Borrowers' existing and after-acquired personal property, including all present or future  
7 accounts, including deposit accounts; books and records; chattel paper; equipment and fixtures;  
8 general intangibles; inventory; investment related property; negotiable collateral; supporting  
9 obligations; interests in commercial tort claims; money, cash equivalents, or other assets that are  
10 or subsequently come into the possession, custody, or control of Wells Fargo or the Lender  
11 Group; and all proceeds and products, whether tangible or intangible, in any of the foregoing  
12 (collectively, the "Encumbered Personal Property"). See Security Agreement § 2. A true and  
13 correct copy of the Security Agreement excluding certain referenced exhibits is attached hereto  
14 as Exhibit "2."

15 62. The Encumbered Personal Property expressly excludes the following assets: (i)  
16 the land-based facilities and amenities comprising the Oasis Recreational Facility, including  
17 without limitation all leased property related thereto; (ii) all owned real property and leasehold  
18 interests in the unimproved real property consisting of: (A) approximately 24.45 acres located to  
19 the southwest and west of the Convention Center, (B) approximately 34.4 acres located  
20 southwest of the CasaBlanca Golf Course, (C) approximately 4.61 acres on which truck parking  
21 for Virgin River is located, which is situated to the east of the Virgin River Casino; (iii) assets  
22 securing certain permitted furniture/fixtures/inventory financing, purchase money debt, or  
23 capitalized lease obligations; (iv) leasehold estates in leasehold property, unless Wells Fargo  
24 requests a security interest in such leasehold estates; (v) minimum casino bankroll requirements;  
25 (vi) any investment related property constituting stock of the Borrowers' subsidiaries that are  
26 controlled foreign corporations to the extent that such property is in excess of 65% of the voting  
27 power of the stock of such controlled foreign corporations; and (vii) all leases, permits, licenses,  
28 including gaming licenses, or other contracts, agreements, assets, or property to the extent that a

1 grant of a lien thereon: (A) is prohibited by law or would result in the abandonment, invalidation,  
2 or unenforcement of the respective Borrowers' right therein, (B) would require the consent of  
3 third- parties and such consent has not been obtained after Borrowers' commercially reasonable  
4 efforts to obtain such consent, or (C) other than as a result of requiring a consent of third-parties  
5 that has not been obtained, would result in a breach of the provisions thereof, or constitute a  
6 default under or result in a termination of such lease, permit, license, contract, or agreement  
7 (collectively, the "Excluded Assets"). See id. § 1(i).

8 63. The obligations under the Senior Credit Facility are further secured by the  
9 Collateral Assignment Of Notes And Deeds Of Trust ("Collateral Assignment") dated December  
10 20, 2004, pursuant to which Oasis Own assigned to Wells Fargo its timeshare interest in and to  
11 those certain Short Form Deeds of Trust With Assignments Of Rent, the Notes Secured By  
12 Deeds Of Trust, and all similar documents enumerated in the Collateral Assignment (the  
13 "Encumbered Timeshare Interests"). A true and correct copy of the Collateral Assignment  
14 without certain referenced exhibits is attached hereto as Exhibit "3."

15 64. Additionally, those Debtors with interests in real property and leasehold interests  
16 entered into the following Leasehold And Fee Deeds Of Trust dated December 20, 2004  
17 (collectively, the Deeds of Trust") to further secure their indebtedness under the Credit  
18 Agreement: (i) the Leasehold And Fee Deed Of Trust, Fixture Filing With Assignment Of Rents  
19 And Leases, And Security Agreement (Nevada), by and between RBG, Virgin River,  
20 CasaBlanca Resorts, BBB, and Oasis Own as grantors, Nevada Title Company as trustee, and  
21 Wells Fargo; and (ii) the Leasehold And Fee Deed Of Trust, Assignment Of Rents And Leases,  
22 Security Agreement And Fixture Filing (Arizona), by and between Oasis Rec as grantor,  
23 Transnation Title Insurance Company ("Transnational") as trustee, and Wells Fargo. True and  
24 correct copies of the Deeds of Trust are attached hereto as Exhibits "4" and "5." Each of the  
25 Deeds of Trust was recorded in the real property records of the subject real property.

26 65. Like the Security Agreement for the Encumbered Personal Property, each of the  
27 Deeds of Trust executed by a Debtor secures substantially all of that Debtor's real property. The  
28 Deeds of Trust for the Debtors' respective realty include, as more fully set forth in the Deeds of

1 Trust, all rights, titles, and interests in the real property described in the Deeds of Trust; all  
 2 existing and subsequently constructed improvements on the realty; all fixtures; all reserves,  
 3 escrows, or impounds required under the Credit Agreement and all deposit accounts maintained  
 4 with respect to the realty; the ground lease agreements and the leasehold estates created thereby  
 5 in that certain real property located in Mohave County, Arizona, all as described in the Deeds of  
 6 Trust; all existing and future leases, licenses, concessions, occupancy agreements, lease  
 7 guarantees; all of the rents, revenues, and royalties incurred from the use of the realty; all  
 8 property tax refunds, utility refunds, and rebates; all accessions, replacements, and substitutions  
 9 for any of the foregoing and all proceeds thereof; all oil and gas and other mineral rights and all  
 10 royalty, leasehold, and other rights pertaining thereto; and all right, title, and interest of the  
 11 grantors in and to all tangible property and intangible property (except, with respect to gaming  
 12 licenses, as prohibited by applicable gaming laws) now or subsequently located on or  
 13 appurtenant to the realty and used or useful in connection with the ownership or operation of the  
 14 realty, including, the personalty (collectively, and including the additional secured real property  
 15 listed under the Deeds of Trust, the "Encumbered Real Property"). See id. §§ 1.1(l) and 2.1.

16 66. In conjunction with the foregoing Deeds of Trust, all of the following personal  
 17 property relating to the realty subject to the Deeds of Trust was assigned to Wells Fargo as  
 18 additional security: (i) all assignable leases and purchases of furniture, fixtures, equipment, signs,  
 19 and other items of personal property relating to the realty or any hotel, casino, or other business  
 20 conducted on the realty; (ii) all assignable leases, subleases, licenses, permits, entitlements,  
 21 concessions, franchises, and other use or occupancy agreements that relate to the realty, and (iii)  
 22 all present and future rents, issues, profits, products, earnings, accounts, rights, benefits, income,  
 23 proceeds, payments, revenue, receipts, and deposits of any kind or nature which relate to, or are  
 24 derived from any of the foregoing, including, without limitation, proceeds with respect to,  
 25 casinos, bars, restaurants, hotel rooms, spa facilities, golf courses, banquet facilities, convention  
 26 facilities, retail premises, and other facilities related to, or used in connection with, the realty,  
 27 with the sole exception of the Excluded Assets (the "Encumbered Realty Personal Property").  
 28 True and correct copies of the Assignment Of Entitlements, Contracts, Rents And Revenues

1 (Arizona) and the Assignment Of Entitlements, Contracts, Rents And Revenues (Nevada) are  
2 attached hereto as Exhibits "6" and "7," respectively.

3 67. Through the Trademark Security Agreement, the Borrowers granted Wells Fargo  
4 a continuing first priority security interest in all of the Borrowers' trademarks, trademark-related  
5 licenses, all related goodwill, and all products and proceeds of the foregoing (the "Encumbered  
6 Trademark Intellectual Property"). A true and correct copy of the Trademark Security  
7 Agreement without certain referenced exhibits is attached hereto as Exhibit "8."

8 68. The obligations under the Senior Credit Facility were also secured by the Black  
9 Trust, and Black, Inc. as pledgors, pursuant to the Parent Pledge Agreement, a true and correct  
10 copy of which is attached hereto as Exhibit "9" without certain referenced exhibits. Pursuant to  
11 the Parent Pledge Agreement, the pledgors, granted to Wells Fargo a continuing security interest  
12 in the equity interests of Virgin River, BBB, and RBG, as well as all proceeds and products  
13 therefrom (the "Pledged Interests," and together with the Encumber Personal Property, the  
14 Encumbered Real Property, the Encumbered Realty Personal Property, the Encumbered  
15 Trademark Intellectual Property, and the Encumbered Timeshare Interests, and expressly  
16 excluding the Excluded Assets, the "Collateral"). In connection with the Parent Pledge  
17 Agreement, the pledgors entered into a Bailee Agreement with Wells Fargo, BNY, and Nevada  
18 Title Company, in which Nevada Title Company agreed to act as bailee for the Pledged Interests  
19 on behalf of Wells Fargo and BNY. A true and correct copy of the Bailee Agreement is attached  
20 hereto as Exhibit "10."

21 69. Contemporaneously with the execution of the Credit Agreement, Wells Fargo,  
22 and the Borrowers entered into that certain Intercreditor And Lien Subordination Agreement,  
23 whereby all liens granted by the Borrowers under the Senior Secured Notes are subordinated to  
24 the liens granted to Wells Fargo with regard to the Senior Credit Facility. A true and correct  
25 copy of the Intercreditor And Lien Subordination Agreement is attached hereto as Exhibit "11."

26 70. Similarly, through that certain Intercompany Subordination Agreement,  
27 Borrowers subordinated, on the terms and conditions set forth therein, all debt by and between  
28

1 them to the prior repayment of the Senior Credit Facility. A true and correct copy of the  
2 Intercompany Subordination Agreement is attached hereto as Exhibit "12."

3 **2. The 9% \$125 Million Senior Secured Notes.**

4 71. On December 20, 2004, Virgin River, RBG, and BBB issued through a private  
5 placement \$125 Million of 9% notes due January 15, 2012 under the Senior Secured Note  
6 Facility (the "Senior Secured Notes"). The Senior Secured Notes are secured on a second  
7 priority basis by the Collateral. BNY is the indenture trustee (the "Senior Secured Indenture  
8 Trustee"). A true and correct copy of the Indenture (the "Senior Secured Indenture") is attached  
9 hereto as Exhibit "13."

10 72. Pursuant to the Senior Secured Indenture, the Senior Secured Notes mature on  
11 January 15, 2012 unless sooner accelerated. Commencing on July 15, 2005, interest is payable  
12 in cash at a rate of 9% per annum on January 15 and July 15 of each year. The Senior Secured  
13 Indenture contains various limitations and restrictions, including limitations on: (i) changes in  
14 control, (ii) consolidation, merger, and asset sales, (iii) indebtedness, and (iv) certain payments,  
15 such as dividends.

16 73. As provided for in the Senior Secured Indenture and the Intercreditor And Lien  
17 Subordination Agreement, the Debtors' obligations under the Senior Secured Notes are secured  
18 by a second priority lien on the Collateral. True and correct copies of the pertinent security  
19 documents excluding certain of the referenced exhibits are attached hereto as follows: (1) the  
20 Senior Secured Note Security Agreement, by and between Borrowers and BNY is attached  
21 hereto as Exhibit "14"; (2) the Collateral Assignment Of Notes And Deeds Of Trust, by and  
22 between Oasis Own and BNY, is attached hereto as Exhibit "15"; (3) the Parent Pledge  
23 Agreement, by and between the Black Trust and Black Inc., as pledgors, and the BNY, is  
24 attached hereto as Exhibit "16"; (4) the Leasehold And Fee Deed Of Trust, Security Agreement  
25 And Fixture Filing With Assignment Of Rents, by and between Virgin River, RBG, CasaBlanca  
26 Resorts, and Oasis Own, as trustor, Nevada Title Company, as trustee, and the BNY, as  
27 beneficiary, is attached hereto as Exhibit "17;" (5) the Leasehold And Fee Deed Of Trust,  
28 Security Agreement And Fixture Filing With Assignment Of Rents, by and between Oasis Rec,



1 as trustor, Transnation, as trustee, and BNY, as beneficiary, is attached hereto as Exhibit "18;"  
 2 (6) the Assignment Of Entitlements, Contracts, Rents And Revenues, by and between Oasis Rec  
 3 and BNY, is attached hereto as Exhibit "19"; (7) the Assignment Of Entitlements, Contracts,  
 4 Rents And Revenues, by and between Virgin River, RBG, BBB, Oasis Own, and BNY, is  
 5 attached hereto as Exhibit "20"; and (8) the Trademark Security Agreement is attached hereto as  
 6 Exhibit "21."

7 **3. The 12.750% \$66 Million PIK Senior Subordinated Notes.**

8 74. On December 20, 2004, Virgin River, RBG, and BBB issued through a private  
 9 placement \$66 Million of 12.75% notes due January 15, 2013 (the "Senior Subordinated  
 10 Notes").<sup>30</sup> The Senior Subordinated Notes are unsecured and are guaranteed, on a joint and  
 11 several basis, by all of the Debtors. BNY is the indenture trustee (the "Senior Subordinated  
 12 Indenture Trustee").<sup>31</sup> A true and correct copy of the Indenture (the "Senior Subordinated  
 13 Indenture") is attached hereto as Exhibit "22."

14 75. Pursuant the Senior Subordinated Indenture, the Senior Subordinated Notes  
 15 mature on January 15, 2013 unless sooner accelerated. Commencing on July 15, 2009, interest  
 16 became payable in cash at a rate of 12.750% per annum on January 15 and July 15 of each year.  
 17 The Senior Subordinated Indenture contains various limitations and restrictions, including  
 18 limitations on: (i) changes in control, (ii) consolidation, merger, and asset sales, (iii)  
 19 indebtedness, and (iv) certain payments, such as dividends.

20 76. As provided for in the Senior Subordinated Indenture, the Senior Subordinated  
 21 Notes were contractually subordinated in payment to the obligations due under the Senior Credit  
 22 Facility and the Senior Secured Notes.

23 **4. The 2006 Amendments.**

24 77. The Parent Pledge Agreements and the Bailee Agreement were amended in  
 25 December of 2006 to remove Black Inc. as a pledgor in order to maintain consistency with the

26 <sup>30</sup> Gross proceeds of approximately \$39 Million were received which accreted to the full face value of \$66 Million.

27 <sup>31</sup> On or about April 28, 2009, the Senior Subordinated Indenture Trustee expressed its intent to resign. However,  
 28 under the Senior Subordinated Indenture, such resignation is not effective until a successor trustee has delivered  
 written acceptance to the retiring trustee and the issuers.



Holding Company Reorganization under which Black Inc. became an indirect wholly-owned subsidiary of the Black Trust and joined in and became bound by the Credit Agreement as set forth below. The following chart identifies the equity interests in which Wells Fargo currently holds a first priority security interest and the Senior Secured Noteholders holds a second priority security interest:

Pledgor	Issuer	Number of Shares or Other Interests	Class	Pledgor's % Ownership Represented By The Pledged Interest	Pledgor's Total % Ownership In Issuer
Black Gaming	Virgin River	100 shares	Common stock	100%	100%
Black Gaming	BBB	16.75 shares	Common stock	100%	100%
Black Inc.	RBG	N/A	Membership interest	100%	5.47%
Virgin River	RBG	N/A	Membership interest	100%	94.53%
Black Trust	Black Gaming	6602 units	Units	66 2/3%	99.03%
Virgin River	Black Inc.	100 shares	Common Stock	100%	100%

78. True and correct copies of the Amended And Restated Parent Pledge Agreement, the Annex 1 To The Pledge and Security Agreement, and the Joinder To The Bailee Agreement are attached hereto as Exhibits "23" through "25."

79. Through the General Continuing Guaranty and Joinder Agreement And Amendment dated December 31, 2006, Black Gaming and Black Inc. joined in and became bound by the Credit Agreement, the Security Agreement, the Intercompany Subordination Agreement, and the related loan documents and became a guarantor under the Credit Agreement, a grantor under the Security Agreement, and an obligor under the Intercompany Subordination Agreement. The General Continuing Guaranty and the Joinder Agreement And Amendment arose from the Holding Company Reorganization and serve to ensure the continuation of Wells Fargo's security interest in all of the Collateral. True and correct copy of the General Continuing Guaranty and the Joinder Agreement And Amendment are attached hereto as Exhibits "26" and "27," respectively.

80. Similarly, pursuant to the Security Agreement Supplement, attached hereto as Exhibit "28," Black Gaming and Black Inc. agreed to be bound by the Security Agreement.

81. Additionally, through the First Supplemental Indentures and Guarantees, copies of which are attached hereto as Exhibits "29" through "32," Black Gaming and Black Inc. guaranteed all of the obligations due and owing under the Senior Secured Notes, as well as the obligations due and owing under the Senior Subordinated Notes.

**5. The Amendments To The Senior Credit Facility Credit Agreement.**

82. The Credit Agreement was amended on October 26, 2007, to amend certain schedules and to revise the allowable capital expenditures. A true and correct copy of the First Amendment To Credit Agreement is attached hereto as Exhibit "33."

83. On June 20, 2008, the Credit Agreement was amended for a second time primarily to: (i) extend the term of the Senior Credit Facility from December 21, 2008 to June 30, 2011; and (ii) to redefine capital expenditures and EBITDA. A true and correct copy of the Second Amendment To Credit Agreement is attached hereto as Exhibit "34."

**6. The Defaults And Forbearance Agreements.**

**a. The Senior Credit Facility Forbearance Agreements.**

84. By the fourth quarter of 2008, it was anticipated that the Debtors would default on the Senior Credit Facility as a result of the Debtors': (i) failure to achieve EBITDA in the required amounts for the 12-month period ending September 30, 2008 and December 31, 2008; (ii) failure to pay the overadvance amount existing as of September 30, 2008 and continuing thereafter; and (iii) potential default with respect to the representations of the Debtors required to be made in connection with the delivery of financial statements for the periods ending September 30, 2008, October 31, 2008, November 30, 2008, and December 31, 2008.

85. Consequently, on November 3, 2008, the Debtors entered into a Forbearance, Consent And Third Amendment To Credit Agreement (the "Senior Secured Forbearance Agreement") with respect to the amended Senior Credit Facility. The Forbearance Agreement amended the Senior Credit Facility and provided that Wells Fargo would forbear from exercising certain rights and remedies under the amended Senior Credit Facility and other loan documents as a result of the anticipated defaults described above, and modified certain financial

1 covenants, calculations, and rates of the Senior Credit Facility through January 15, 2009. The  
2 Senior Secured Forbearance Agreement provided, among other things, for the following:

- 3 1. The LIBOR Rate Margin was increased from 3.50% to 5%, and the Base Rate  
4 Margin was increased from 2% to 5%. Therefore, the interest rate premium  
5 payable in respect of loans available under the Foothill Facility was increased  
6 accordingly;
- 7 2. The minimum EBITDA covenant was reduced from \$15 Million to \$10  
8 Million for the September 2008 through December 2008 reporting periods;
- 9 3. The Borrowing Base multiple was increased from 1.0x to 1.5x from the  
10 execution of the Forbearance Agreement until January 15, 2009; and
- 11 4. Debtors were allowed to temporarily reduce operations at the Oasis Casino  
12 during the forbearance period.

13 86. Between January 15, 2009 and February 25, 2009, the Debtors entered into four  
14 additional amendments to the Forbearance Agreement, which provided in pertinent part for: (i)  
15 the extension of the forbearance period, with the last extension expiring at the latest on March 6,  
16 2009 if a term sheet and certain projections were provided, or otherwise expiring at the latest on  
17 March 2, 2009; (ii) consent to the continued reduction of operations at the Oasis Casino during  
18 the forbearance period; and (iii) authorization to transfer slot machines and video poker  
19 machines from the Oasis Casino to the other Casinos.

20 87. Although the Debtors provided a restructuring term sheet and certain projections  
21 to Wells Fargo by the required date, the extended forbearance period expired, thereby permitting  
22 Wells Fargo to exercise any and all rights and remedies under the Senior Credit Facility,  
23 including the acceleration of the Debtors' obligations due and owing under the Senior Credit  
24 Facility.

25 88. On or about May 4, 2009, the Debtors received a Notice Of Default And  
26 Reservation Of Rights from Wells Fargo, a true and correct copy of which is attached hereto as  
27 Exhibit "35," identifying various defaults under the Credit Agreement and advising that due to  
28 such defaults, Wells Fargo was no longer obligated to fund any advances, issue any letters of  
credit, or to otherwise extend credit under the Senior Credit Facility.

1           89. As of the Petition Date, approximately \$14,681,408 of principal is due and owing  
2 under the Senior Credit Facility, plus any accrued and unpaid interest, fees, costs, and expenses  
3 under the Credit Agreement.

4 ...

5           b. The Senior Secured Forbearance Agreement.

6           90. Due to existing covenant defaults under the Senior Secured Notes and the  
7 anticipated default on the January 15, 2009 interest installment payment of \$5.625 Million (the  
8 "2009 Senior Secured Interest Payment"), the Debtors' and a consortium of holders of the  
9 majority of the Senior Secured Notes (the "Noteholder Consortium") commenced discussions  
10 regarding restructuring the Debtors' obligations under the Senior Secured Notes.

11           91. In furtherance of such negotiations, the Noteholder Consortium retained  
12 Cadwalader, Wickersham & Taft, LLP ("Cadwalader") as the counsel and Morgan Joseph & Co.,  
13 Inc. ("Morgan Joseph") as their financial advisors. By letter agreement effective October 1,  
14 2008, the Debtors agreed to reimburse Cadwalader for the fees and expenses incurred in their  
15 representation of the Noteholder Consortium, and by letter dated January 8, 2009, the Debtors  
16 agreed to pay Morgan Joseph certain monthly and completion fees for their financial advisory  
17 services rendered to the Noteholder Consortium.

18           92. The Debtors did not make the 2009 Senior Secured Interest Payment, thereby  
19 permitting the Senior Secured Noteholders and the Senior Secured Indenture Trustee to exercise  
20 any and all rights and remedies under the Senior Secured Notes, including declaring all principal,  
21 premiums, and accrued and unpaid interest immediately due and payable.

22           93. On February 19, 2009, the Debtors and the Noteholder Consortium entered into a  
23 Forbearance Agreement (the "Senior Secured Forbearance Agreement"), whereby the Noteholder  
24 Consortium agreed to forbear and to cause the Senior Secured Indenture Trustee to forbear on  
25 exercising their rights under the Senior Secured Notes and related loan documents until March 9,  
26 2009, provided that: (i) on or before March 2, 2009, the Debtors provide a summary of the terms  
27 and conditions indicative of the restructuring of the Senior Secured Notes;  
28 and (ii) on or before March 6, 2009, the Debtors provide an acceptable 13-week cash flow

1 forecast.

2 94. Although the Debtors timely provided the required term sheet and projections, the  
3 forbearance period expired, thereby permitting the holders of at least 25% of the Senior Secured  
4 Notes and the Senior Secured Indenture Trustee to exercise any and all rights and remedies under  
5 the Senior Secured Notes, including declaring the aggregate principal amount of the Senior  
6 Secured Notes, plus unpaid interest and any other amounts provided under the Senior Secured  
7 Notes immediately due and payable. To date, neither the Senior Secured Noteholders nor the  
8 Senior Secured Indenture Trustee have declared such debt immediately due and payable.

9 95. As of the Petition Date, approximately \$125 Million of principal is due and owing  
10 under the Senior Secured Notes, with accrued interest of approximately \$18,200,342.

11 c. Default Under The Senior Subordinated Notes.

12 96. The Debtors defaulted under the Senior Subordinated Notes by failing to tendered  
13 the initial interest payment due under the Senior Subordinated Notes on July 15, 2009. As a  
14 result of such default, the aggregate principal amount of the Senior Subordinated Notes, plus  
15 accrued and unpaid interest, and any other amounts due and owing on the Senior Subordinated  
16 Notes could be declared immediately due and payable by the Senior Subordinated Trustee or  
17 holders of 25% or more of the Senior Subordinated Notes.

18 97. To date, neither the Senior Subordinated Noteholders nor the Senior Subordinated  
19 Indenture Trustee have declared such debt immediately due and payable.

20 98. As of the Petition Date, approximately \$66 Million of principal is due and owing  
21 under the Senior Subordinated Notes, with accrued interest of approximately \$9,406,356.

22 **C. Events Leading To These Chapter 11 Cases.**

23 **1. Economic Pressures.**

24 a. Increased Competition.

25 99. In December 2004, the Black Trust acquired all of the equity interests in the then-  
26 existing entities comprising the Debtors, with the sole exception of above-discussed Mr.  
27 Teixeira's equity interest. At this time, the Debtors held an approximately 75% market share in  
28 the Mesquite hotel and gaming industry.

100. Between 2004 and 2008, the only non-Debtor owned hotel and casino in Mesquite, the Eureka, completed a \$30 Million expansion project. Despite the Debtors renovation and expansion efforts, the completion of the Eureka expansion project, together with the increase of gaming devises at other locations within Mesquite, reduced the Debtors' market share to approximately 54%. This increased competition necessarily resulted in the reduction of Debtors' gaming and hotel revenues.

b. Unforeseeable Economic Downturn Throughout The Southwestern United States.

101. The real estate market in Clark County, Nevada, as well as across the southwestern United States, has experienced a significant downturn due to plummeting real estate values, substantially reduced mortgage loan originations and securitizations, increased residential mortgage foreclosures, and more generalized credit market dislocations and significant contraction in available liquidity. In fact, Nevada's foreclosure and unemployment rates are among the highest in the country. These factors, combined with significantly higher oil and gasoline prices commencing in 2008, declining business and consumer confidence, and increased unemployment, precipitated the recession resulting in Nevada experiencing dramatic decreases in tourism, convention, and gaming revenues. These same factors have resulted in consumers within Nevada reducing spending on gaming.

102. The industry-wide plummeting of revenues has resulted in traditionally higher-priced hotel-casinos substantially discounting their rates and offering incentive packages such as free slot play and credits or discounts at restaurants and spas to entice customers, including customers who traditionally would have stayed or gambled at the Casinos.

103. According to the Abbreviated Revenue Release from the State of Nevada, Gaming Control Board, Tax and License Division (the "Revenue Release") for October 2009, Nevada gaming win has dropped precipitously for the current fiscal year to date, with statewide win decreasing 11.56%, and Clark County decreasing 11.10%.<sup>32</sup>

<sup>32</sup> See Nevada Gaming Commission and State Gaming Control Board, Abbreviated Revenue Release Index, available at <http://gaming.nv.gov/mrrindex.htm>.

104. In Mesquite, for September 2009 the gross gaming revenue was down 12.7% compared to September 2008.<sup>33</sup> Similarly, the gross gaming revenue in Mesquite for the month of October 2009 was down 14% compared to October 2008.<sup>34</sup> Additionally, for 2009, the total room nights occupied in Mesquite was down 26.6% and gross gaming revenue was down 16.6%.<sup>35</sup>

105. Slot machine revenue has suffered substantial declines during this economic downturn. In Nevada, slot machine revenues statewide were down 12.78% for the first through the third quarter of 2009 as compared with 2008, with Clark County being down 12.65%.<sup>36</sup> Similarly, slot machine revenues statewide were down 8.46% for the calendar year ending December 31, 2008 as compared with 2007.<sup>37</sup>

106. Revenue from games and tables statewide was also down 11.56% for the calendar year through the third quarter of 2009 as compared with 2008, with Clark County down 10.70%.<sup>38</sup> Similarly, revenue from games and tables statewide was down 12.16% for the calendar year ending December 31, 2008, with Clark County down 8.47%.<sup>39</sup>

107. Consistent with the market, in 2008, the Debtors' Casino revenue decreased 23.6% to \$81.8 Million for the year ending December 31, 2008, as compared to \$107.1 Million for the year ending December 31, 2007. This includes a \$22.1 Million decrease in slot revenues and a \$2.1 Million decrease in table game revenues. Other gambling revenues decreased \$1.1

<sup>33</sup> See [www.lvca.com/getfile/479/ES-YTD2009.pdf](http://www.lvca.com/getfile/479/ES-YTD2009.pdf).

<sup>34</sup> See *id.*

<sup>35</sup> See *id.*

<sup>36</sup> See Nevada Gaming Commission and State Gaming Control Board, Quarterly Report for the quarter ended September 30, 2009, *available at* [http://gaming.nv.gov/documents/pdf/r5\\_09sep.pdf](http://gaming.nv.gov/documents/pdf/r5_09sep.pdf); see also Liz Benston, *Gaming Revenue, Especially Slots, Continue Their Decline*, Las Vegas Sun (May 9, 2008), *available at* <http://www.lasvegassun.com/blogs/gaming/2008/may/09/gaming-revenue-especially-slots-continue-their-dec/>; see also Howard Stutz, *Gaming Revenues Tumble Again, Amount Wagered On Slots Decreases For Sixth Straight Month*, Las Vegas Review-Journal (June 12, 2008), *available at* <http://www.lvrj.com/business/19817134.html>.

<sup>37</sup> See *id.* at [http://gaming.nv.gov/documents/pdf/r5\\_08dec.pdf](http://gaming.nv.gov/documents/pdf/r5_08dec.pdf).

<sup>38</sup> See *id.* at [http://gaming.nv.gov/documents/pdf/r5\\_09sep.pdf](http://gaming.nv.gov/documents/pdf/r5_09sep.pdf).

<sup>39</sup> See *id.* at [http://gaming.nv.gov/documents/pdf/r5\\_08dec.pdf](http://gaming.nv.gov/documents/pdf/r5_08dec.pdf).



1 Million, the majority of which were poker revenues. Similarly, food and beverage revenues  
 2 decreased by 23% and hotel revenues decreased by 15% in 2008.<sup>40</sup>

3 108. Indeed, the gaming and hotel industry as a whole has faced challenges recently  
 4 stemming from declining revenues and property values in addition to other factors, as evidenced  
 5 by at least five large gaming businesses filing for Chapter 11 protection recently: (1) the  
 6 Greektown Casino in Detroit, Michigan, see In re Greektown Holdings, LLC, et al., Case No. 08-  
 7 53104-WSD (Bank. E.D. Mich. 2008); (2) the Tropicana casino group, see In re Tropicana  
 8 Entertainment, LLC, et al., Case No. 08-10856-KJC (Bankr. D. Del. 2008), which owns hotel  
 9 and casino properties throughout the country including a property on the Las Vegas Strip and  
 10 properties in Atlantic City, New Jersey; (3) Trump Entertainment Resorts, see In re TCI 2  
 11 Holdings, LLC, et al., Case No. 09-13654-JHW (Bank. D.N.J. 2009), which involves a property  
 12 in Atlantic City, New Jersey; (4) the Stations Casino group, see In re Stations Casinos, Inc. et al.,  
 13 Case No. 09-52477-GWZ (Bankr. D. Nev. 2009), which owns several hotels and casino in  
 14 Nevada; and (5) the Herbst Casino group, see In re Zante, Inc., et al., Case No. 09-50746-GWZ  
 15 (Bankr. D. Nev. 2009), which owns hotel and casino properties and slot routes in Nevada,  
 16 California, Iowa, and Missouri.

17 109. In sum, due to the increased costs that precluded the construction of the additional  
 18 180-room tower at the CasaBlanca Casino and the contemplated revenues therefrom, the Debtors  
 19 needed strong financial performance under their existing operations in order to satisfy their  
 20 financial obligations. Instead, in the last few years, the Debtors have faced dramatically  
 21 declining hotel and casino revenues based on reduced consumer spending, a tightening credit  
 22 market, and an overall weakening economy. These market-driven challenges manifested after  
 23 the Debtors leveraged themselves in 2004, thus leaving the Debtors in a highly precarious  
 24 position at a time when they needed robust financial performance.

25 ...

26 ...

27  
 28 <sup>40</sup> Source: Debtor's Form 10-K for the fiscal year ending December 31, 2008, available at [www.sec.gov](http://www.sec.gov).

1           **2.     Financial Performance.**

2           110.   The Debtors' recent financial performance on a consolidated basis has been as  
3 follows:

	Year Ended 12-31-08 (audited) <sup>41</sup>	Year Ended 12-31-09 (unaudited)
<b>Revenues</b>		
<b>Casino Gaming</b>	\$81,831,000	\$62,584,000
<b>Food and Beverage</b>	\$31,849,000	\$22,596,000
<b>Hotel</b>	\$29,141,000	\$22,026,000
<b>Other Revenues</b>	\$16,348,000	\$11,561,000
<b>Total Revenues</b>	\$159,169,000	\$118,767,000
<b>Net Revenues</b>	\$131,637,000	\$97,779,000
<b>EBITDAR</b>	\$11,154,000	\$11,345,000

14           111.   As of the Petition Date, the estimated value of the Collateral securing the Senior  
15 Credit Facility and the Senior Secured Notes is thought to be approximately \$85 - \$90 Million.

16           112.   I am informed and believe that the enterprise value of the Debtors' businesses as a  
17 going concern as of the Petition Date is thought to be approximately \$85 - \$90 Million.

18           113.   I am also informed and believe that the enterprise value of the Debtors' businesses  
19 will not diminish subject to the businesses continuing to operate in the ordinary course and the  
20 expenditure of capital expenditures as proposed in the Budget attached to the proposed  
21 Stipulation Authorizing Use Of Cash Collateral By Debtors And Granting Adequate Protection,  
22 the gaming licenses and permits remaining in place, and present management remaining in place.

23           **D.     Prenegotiated Plan Of Reorganization.**

24           114.   Provided the above-discussed economic recession substantially reducing the  
25 Debtors' revenues, thereby resulting in the impending inability to service the obligation owing  
26 under the Senior Credit Facility, the Senior Secured Notes, and the Senior Subordinated Notes,  
27

28           <sup>41</sup> Source: Debtor's Form 10-K for the fiscal year ending December 31, 2008, available at [www.sec.gov](http://www.sec.gov).

1 in 2008, the Debtors retained the services of Gordon Silver as their restructuring counsel and  
 2 XRoads Solutions Group, LLC as their financial advisors. For in excess of a year, the Debtors  
 3 have been analyzing and exploring various restructuring scenarios and proposals, which  
 4 discussions have included, to varying degrees, Wells Fargo, the Noteholders Consortium, and the  
 5 Investor Parties, as defined below.

6 115. Despite the expiration of the March 9, 2009 forbearance period provided with  
 7 regard to the Senior Secured Notes, the parties remained in active discussions regarding the  
 8 terms of a restructuring agreement.

9 116. On December 22, 2009, an Agreement, together with the Restructuring Term  
 10 Sheet attached thereto (the "Lockup"), was entered into by the: (i) Debtors, (ii) the Black Trust,  
 11 (iii) certain holders of a majority of the Senior Secured Notes (collectively, the "Consenting  
 12 Senior Secured Noteholders"), (iv) Michael Gaughan, on behalf of himself or his designee  
 13 ("Gaughan"), (v) Anthony Toti ("Toti"), and (vi) Newport Global Advisors LP or its affiliates  
 14 ("Newport," and together with the Black Trust, Gaughan, and Toti, the "Investor Parties"). The  
 15 Lockup provides for a restructuring of the Debtors to be effectuated pursuant to a plan of  
 16 reorganization (the "Plan"), which, together with the proposed Disclosure Statement To  
 17 Accompany Debtors' Plan Of Reorganization (the "Disclosure Statement"), have been filed on  
 18 the Petition Date. A true and correct copy of the Lockup is attached hereto as Exhibit "36."

19 117. Pursuant to the Lockup, the Debtors have filed the Plan that principally provides  
 20 that:<sup>42</sup>

21 (a) all existing memberships in Black Gaming will be extinguished and cancelled;

22 (b) a new entity will be formed ("New Black Gaming, LLC");

23 (c) each of the Senior Secured Noteholders will receive, in full satisfaction of their  
 24 claims, their pro rata share of each of the following: (i) newly issued promissory notes of New  
 25 Black Gaming under the New Loan Facility, which is a \$62.5 Million term loan with an interest  
 26 rate of LIBOR (floor of 1.5% and ceiling of 4.5%) plus 700 basis points due 5 years from the

27 <sup>42</sup> The following is merely a high-level summary of the Plan provisions. All parties-in-interest should read the Plan  
 28 in its entirety.

1 Substantial Consummation Date by Black Gaming, collateralized by substantially the same  
 2 collateral presently securing the Senior Secured Notes, (ii) a Cash Contribution tendered by the  
 3 Investor Parties of up to the maximum of an amount equal to \$9.25 Million, less the amount  
 4 equal to the new equity interests issued to the Senior Secured Noteholders; and (iii) the Cash  
 5 Payment, which is the cash in the possession of the Debtors immediately prior to the Substantial  
 6 Consummation Date plus the \$9 Million Cash Investment, minus the sum of (i) \$10 Million, (ii)  
 7 the amount of the unpaid balance owing on the Senior Credit Facility immediately prior to the  
 8 Substantial Consummation Date, and (iii) the Disputed Claim Reserve (as defined in the Plan);

9 (d) the Senior Subordinated Noteholders receiving, in full satisfaction of their claims,  
 10 warrants for 5% of the fully-diluted new equity interests in New Black Gaming struck at the  
 11 enterprise value of (x) \$140 Million, plus (y) the aggregate amount as of the Effective Date of  
 12 accrued and unpaid interest in respect of the notes issued pursuant to the new Senior Secured  
 13 Note Facility less the Cash Payment;

14 (e) Wells Fargo receiving payment in full of their allowed claims under the Senior Credit  
 15 Facility; and

16 (f) the Investor Parties making the Investors Parties' Contribution, which is an aggregate  
 17 amount up to the maximum of \$18.25 Million, consisting of the Cash Contribution and the \$9  
 18 Million Cash Investment, in exchange for 100% of the equity interests in New Black Gaming,  
 19 subject to dilution as a result of warrants issued to the Senior Subordinated Noteholders.

## 20 **II.** **FIRST DAY MOTIONS**

21 118. The Debtors have commenced their Chapter 11 Cases in response to their debt  
 22 obligations and the aforementioned market challenges. The Debtors' transition into Chapter 11  
 23 proceedings must be comprehensively and effectively organized to ensure that they will be able  
 24 to operate smoothly in bankruptcy and be afforded the opportunity to successfully emerge from  
 25 their Chapter 11 Cases. Accordingly, it is critical that the Debtors maintain strong relationships  
 26 with their customers, employees, partners, vendors, creditors, gaming regulators and other  
 27 governmental entities, and such other parties that enable the Debtors to conduct their business.  
 28

1 To maintain and foster these relationships, it is important to minimize the distractions to the  
 2 Debtors' business operations that could result from the Debtors' petitioning for Chapter 11 relief.

3 119. I have reviewed and am generally familiar with the contents of each of the First  
 4 Day Motions. Based on that familiarity and information supplied to me by other members of the  
 5 Debtors' management and the Debtors' various business and legal advisors, I believe that the  
 6 relief sought in each of the First Day Motions is necessary to enable the Debtors to operate in  
 7 their Chapter 11 Cases with minimal disruption or loss of productivity or value. I also believe  
 8 that the First Day Motions are vital to the Debtors' successful reorganization and are in the best  
 9 interests of the Debtors and their creditors.

10 **A. Joint Administration.**

11 120. The affiliated nature of the Debtors' financial and operational relationships will  
 12 enable joint administration of these Chapter 11 Cases to provide significant administrative  
 13 convenience. The Debtors form a consolidated gaming company that focuses on gaming and  
 14 associated operations. They share the same management and, ultimately, the same ownership.  
 15 The Debtors also maintain consolidated books and records and are generally viewed as one  
 16 business enterprise.

17 121. Many of the motions, hearings, and orders that will arise in these Chapter 11  
 18 Cases will jointly affect each and every Debtor. As such, through joint administration, Debtors  
 19 and this Court will be able to achieve fair and efficient administration of the related Chapter 11  
 20 Cases, Debtors will be able to reduce fees and costs by avoiding duplicative filings and  
 21 objections, and the ability of the parties-in-interest to monitor these Chapter 11 Cases will be  
 22 facilitated by having all pleadings grouped together on one docket.

23 122. The Debtors are jointly and severally liable under the Senior Credit Facility, the  
 24 Senior Secured Notes, and the Senior Subordinated Notes. Thus, the contemplated  
 25 reorganization set forth in the Plan, or by any alternate reorganization of these Debtors will  
 26 require a joint and coordinated approach and, in all probability, a jointly proposed plan of  
 27 reorganization.

28 ...

1 **B. Employment Of Kurtzman Carson Consultants LLC ("KCC") As Claims And**  
 2 **Noticing Agent For Debtors.**

3 123. The Debtors have determined that in order to carry out their duties as provided for  
 4 under Sections 1107 and 1108 of the Bankruptcy Code, it is necessary and in the best interest of  
 5 the estates to employ an experienced claims and noticing agent. The Debtors desire to employ  
 6 KCC as their claims and notice agent to perform the services enumerated within the Application  
 7 For Order Authorizing The Employment Of Kurtzman Carson Consultants LLC As Claims And  
 8 Noticing Agent For Debtors.

9 124. The Debtors believe that engaging KCC as claims and noticing agent will  
 10 expedite the service of Rule 2002 notices, streamline the claims administration process, and  
 11 permit the Debtors to focus on their reorganization efforts.

12 125. The proposed rates to be charged by KCC are reasonably and appropriate for  
 13 services of this nature given the quality of KCC's services and prior bankruptcy experience.  
 14 Prior to the Petition Date, the Debtors paid KCC a retainer of \$25,000.

15 **C. Motion Seeking Interim Approval Of Cash Collateral Stipulation.**

16 126. The Debtors, Wells Fargo, the Consenting Senior Secured Noteholders, and the  
 17 Senior Secured Indenture Trustee negotiated the Stipulation Authorizing Use Of Cash Collateral  
 18 By The Debtors And Granting Adequate Protection (the "Cash Collateral Stipulation") at arms'  
 19 length and in good faith. The Cash Collateral Stipulation is in the best interest of the Debtors  
 20 and their estates.

21 127. The Debtors cannot meet their ongoing postpetition obligations unless they have  
 22 the immediate ability to use Cash on Hand, the Deposit Accounts, and Postpetition Cash. In the  
 23 absence of such use, immediate and irreparable harm will result to the Debtors, their Estates, and  
 24 their creditors, and will render an effective and orderly reorganization of the Debtors' businesses  
 25 impossible.

26 128. Upon information and belief after reasonable inquiry, Wells Fargo and the Senior  
 27 Secured Noteholders are the only parties with a properly perfected security interest in Cash  
 28 Collateral and Disputed Cash Collateral (except as limited by the Cash Collateral Stipulation),

1 and Wells Fargo, the Consenting Senior Secured Noteholders, and the Senior Secured Indenture  
 2 Trustee consent to the Debtors' use thereof, subject to the terms and conditions set forth in the  
 3 Stipulation and in accordance with the Budget.<sup>43</sup>

4 129. Moreover, the Debtors' immediate use of Cash Collateral and Disputed Cash  
 5 Collateral is essential to its ongoing operations and ability to reorganize. An integral aspect of  
 6 maintaining the Debtors' relationships, compliance with applicable gaming laws and regulations,  
 7 and their business operations is the Debtors' ability to use Cash Collateral and Disputed Cash  
 8 Collateral to maintain a sufficient level of working capital in order to pay ordinary course  
 9 obligations such as those to their employees, customer programs, vendors, utilities, and taxing  
 10 authorities, to pay for necessary ordinary course property maintenance and projects, and to  
 11 maintain minimum bankroll requirements as determined by the Nevada Gaming Authority. The  
 12 Cash Collateral Stipulation allows for the use of both Cash Collateral and Disputed Cash  
 13 Collateral in accordance with the Budget attached to the Cash Collateral Stipulation while  
 14 preserving the Debtors, Wells Fargo, the Consenting Senior Secured Noteholders, and the Senior  
 15 Secured Indenture Trustee's claims regarding the Cash Collateral and Disputed Cash Collateral.

16 130. The Cash Collateral Stipulation allows the Debtors to effectively operate and  
 17 maintain their businesses during the Chapter 11 cases and is essential to an effective  
 18 reorganization. By the very nature of the Debtors' gaming businesses, the amounts of cash and  
 19 cash equivalents provided for in the Budget are required.

20 **D. Motion To Tender Payment To Administrative Priority Goods Claims.**

21 131. The Debtors depend on a normal and regular supply of goods from various  
 22 vendors in the ordinary course operations of their businesses, and any interruption of such supply  
 23 would severely impact the Debtors' businesses and their ability to serve their customers.  
 24 Moreover, with respect to certain kinds of trade relationships, the Debtors may be unable to  
 25 obtain the necessary goods elsewhere in the marketplace and/or on competitive terms.

26 <sup>43</sup> The Budget was formulated after review of the Debtors' normal and ordinary cash needs in the operation of its  
 27 businesses and allows the Debtors' to operate through the reorganization process and maintain the integrity of the  
 28 businesses. The Budget has been reviewed and approved by Wells Fargo and the Consenting Senior Secured  
 Noteholders.



132. In order to minimize the impact and need for the Motion, the Debtors have attempted to pay in full all ordinary course trade creditors prior to the Petition Date. Notwithstanding this effort, the Debtors anticipate that there may be some creditors who delivered goods that were received by the Debtors within twenty (20) days before the Petition Date, which the goods were sold to the Debtors in the ordinary course of such Debtors' business, all within the meaning of Section 503(b)(9) (such alleged claims, the "Priority Goods Claims" and the alleged holders, the "Priority Goods Claimants"). In the case at hand, it is estimated that they may still owe approximately \$20,000 to potential Priority Goods Claimants.

133. The Debtors propose to pay the Priority Goods Claims held by those Priority Goods Claimants that the Debtors wish to continue doing business with and who agree to continue to supply goods to the Debtors on ordinary and acceptable trade terms to Debtors. If a particular Priority Goods Claimant refuses to continue doing business with Debtors and/or refuses to do so on the same terms as allowed prepetition, the Debtors request that they be given the discretion not to pay that Priority Goods Claimant pursuant to terms of the Motion.

134. The relief requested in the Emergency Motion For An Order: (I) Allowing Administrative Expense Status For Goods Received Within The Twenty Day Period Before The Petition Date, And (II) Authorizing, But Not Directing, The Debtors To Pay Such Obligations is in the best interests of the Debtors' estates because: (i) favorable trade terms will prevent the contraction of the Debtors' liquidity; and (ii) the Court's time and resources will not be burdened with numerous motions from individual Priority Goods Claimants requesting payment of such administrative expenses.

**E. Motion For Authorization To Honor Hotel Room And Other Customer Deposits And Travel Agent Commissions.**

135. As of the Petition Date, BBB, CasaBlanca Resorts, RBG, Virgin River, Oasis Mgmt, Oasis Own, and Oasis Rec had hotel room, timeshare, and RV site reservation deposits for post-petition dates, as well as other deposits for use of the golf and other recreational facilities. Numerous prospective guests and other customers had placed deposits for hotel rooms, timeshare, and RV sites they intended to occupy or facilities they intended to use. In

1 addition, some of these hotel room, timeshare, and RV site reservations had been placed by  
 2 travel agencies, which pursuant to commission agreements, are entitled to receive commissions  
 3 when such sites are occupied and the customers pay their bills. The Debtors request that the  
 4 Court enter an order permitting them without further order of this Court to honor all prepetition  
 5 Customer Deposits and Travel Agent Commissions.<sup>44</sup>

6 136. Maintaining the satisfaction and goodwill of prospective guests and other  
 7 customers is imperative to the success of any reorganization by the Debtors. If the Debtors are  
 8 unable to honor advance deposits for hotel room, timeshares, RV site reservations, as well as  
 9 other related deposits, their operations will be severely affected.

10 137. Likewise, travel agents will be unlikely to direct their future customers to the  
 11 Debtors if prepetition deposits and commission agreements are not honored. Consequently,  
 12 maintaining the satisfaction and confidence of travel agents is important to the Debtors' on-going  
 13 business operations and the success of any reorganization by the Debtors.

14 138. As of the Petition Date, the Debtors estimate that they are holding the Customer  
 15 Deposits and Travel Agent Commissions in the aggregate approximate sum of \$1,124,428.

16 139. The respective Debtors have sufficient cash on hand and with their financial  
 17 institutions to honor all of the Customer Deposits and Travel Agent Commissions. The Debtors'  
 18 operations are currently cash flow positive, prior to debt service, and the Debtors presently have  
 19 approximately \$12 Million either in cash or in their bank accounts as of the Petition Date.

20 140. The relief requested in the Emergency Application For Order Permitting Debtors  
 21 To Honor Hotel Room And Other Customer Deposits And To Honor Travel Agent Commissions  
 22 is in the best interests of the Debtors' estates, as it will have little, if any, economic impact on the  
 23 Debtors' creditors, while preserving for the creditors invaluable customer goodwill and travel  
 24 agent confidence. It is necessary that this Court grant the relief requested herein to facilitate  
 25

26  
 27 <sup>44</sup> The terms Customer Deposits and Travel Agent Commissions shall have the meaning ascribed to them in  
 28 Emergency Application For Order Permitting Debtors To Honor Hotel Room And Other Customer Deposits And To  
Honor Travel Agent Commissions filed contemporaneously herewith.

1 continued operation of the Debtors' business. The importance of the Debtors' customer loyalty  
2 and the need to encourage travel agents to continue booking business for customer is critical.

3 **F. Motion For Authorization To Honor Casino Chips And Other Gaming Liabilities.**

4 141. It would be extremely detrimental to the Debtors' gaming operations, and  
5 therefore, to their overall results of operation if they are required to distinguish between pre and  
6 post-Petition Date gaming liability and related types of liability. In this regard, as of the Petition  
7 Date, BBB, CasaBlanca Resorts, and RBG had the following types of gaming liabilities:

8 a. Prepetition casino chips and tokens in the public domain, with such  
9 amounts totaling an estimated \$766,000 as of the Petition Date;

10 b. Progressive slot liability on various gaming devices throughout the  
11 Casinos, which represents a portion of prepetition wagering on the applicable gaming  
12 devices that will be paid post-petition when a customer wins the appropriate jackpot,  
13 participation and lease fees relating to prepetition gaming, and contractual obligations  
14 with third parties operating wide area progressive systems;

15 c. Deposits placed by customers with casino cages to cover wagers, as well  
16 as any checks<sup>45</sup> such as jackpots issued from the casino cage accounts;<sup>46</sup> and

17 d. Ongoing customer promotions, including but not limited to, player cards  
18 and slot machine player cards, whereby individual participants accumulate points in  
19 proportion to the individual customer's wagerings; as these points accumulate,  
20 participants become eligible to redeem the points for various prizes, including cash,  
21 complimentary meals, gift shop discounts, and other promotions.

22 142. The requested relief in the Emergency Motion For Order Authorizing Debtors To  
23 Honor Casino Chips And Other Gaming Liabilities (the "Casino Chips Motion") is in the best  
24 interests of the Debtors' estates as it will have little, if any, economic impact upon their creditors,

25 \_\_\_\_\_  
26 <sup>45</sup> The Debtors undertook measures prepetition to ensure that substantially all of such outstanding checks had  
cleared the Debtors' accounts prepetition.

27 <sup>46</sup> Debtors' casino cage accounts are discussed more specifically in the Emergency Application For Order  
28 Authorizing Maintenance Of Prepetition Cash Management System And Maintenance Of Prepetition Bank  
Accounts.

1 while preserving for the creditors more viable casino business operations, as well as customer  
2 goodwill.

3 143. It would be extremely harmful to the Debtors' casino business operations and,  
4 therefore, to the Debtors' overall results of operations if they are required to distinguish between  
5 prepetition and post-petition casino chips, tokens, wagerings, participation gaming, promotions,  
6 and progressive liability. In addition to the expenses that would arise from devising and  
7 implementing a system for making such distinctions, there would undoubtedly be a chilling  
8 effect on the casino business if each such claim had to be examined for the purpose of  
9 ascertaining whether the claim arose pre or post-petition. Furthermore, the respective Debtors'  
10 failure to honor their gaming liabilities would also likely cause substantial regulatory compliance  
11 issues with their applicable gaming authorities.

12 144. It is necessary that this Court grant the relief requested in the Casino Chips  
13 Motion to facilitate continued operation of the Debtors' casino business. The importance of the  
14 Debtors' customer loyalty cannot be underestimated. The Debtors operate in a competitive  
15 environment where there are casinos and slot machines open for customers to patronize. If the  
16 respective Debtors do not immediately honor their gaming liabilities incurred in the ordinary  
17 course of their businesses, the Debtors' customers will simply turn to the Debtors' numerous  
18 competitors to gamble. Those customers will gamble where there is not an issue as to collecting  
19 on casino chips or otherwise redeeming assets owing to them from gaming activity. Any such  
20 customer defection and losses in customer loyalty would be disastrous to the Debtors' prospects  
21 to successfully reorganize. Indeed, in order to operate effectively in their Chapter 11 Cases, the  
22 Debtors' and the Casinos' customers must be able to immediately exchange their cash for casino  
23 chips and tokens, and vice versa. Finally, it is essential that the Debtors be allowed to  
24 immediately honor and continue ongoing customer promotions and pay progressive slot machine  
25 payouts and jackpots.

26 145. Authorizing the respective Debtors to honor all casino chips, tokens, and wagers  
27 in existence as of the Petition Date, progressive slot liabilities and deposits, and all prepetition  
28 customer promotion accumulations and similar customer promotions is crucial to the

1 preservation, protection, and maximization of the Debtors' estates. These obligations represent  
 2 but a small percentage of the Debtors' total prepetition debts, yet their satisfaction will contribute  
 3 significantly to the Debtors' revenue-generating capability and toward fostering customer  
 4 goodwill.

5 146. Indeed, the Debtors' creditors will benefit from the relief sought herein. If the  
 6 Debtors are prohibited from honoring and maintaining all casino chips, tokens, and wagers in  
 7 existence as of the Petition Date, progressive slot liabilities and deposits, and all prepetition  
 8 customer promotion accumulations and similar customer promotions, consistent with their past  
 9 business practices, then customers' lost confidence will damage Debtors' businesses to an extent  
 10 that far exceeds the cost associated with honoring and continuing such practices. Accordingly,  
 11 the relief requested in the Casino Chip Motion will preserve customer goodwill and help protect  
 12 and maintain the value of the Debtors' estates during this critical time.

13 **G. Motion Seeking Authorization To Pay Wages And Other Employee Obligations.**

14 147. As of the Petition Date, RBG, Oasis Rec, and BBB employ approximately 1,680  
 15 full and part-time employees (the "Employees") in the ordinary course of their businesses.  
 16 Notwithstanding the fact that RBG, Oasis Rec, and BBB employ the Employees, the Employees  
 17 ultimately provide services that benefit each of the Debtors. Continued service by the  
 18 Employees is therefore vital to the Debtors' ongoing operations and reorganization.

19 148. As of the Petition Date, the Employees were owed or had accrued in their favor  
 20 various sums from the Debtors for wages and salaries incurred in the ordinary course of the  
 21 Debtors' businesses (the "Wage Obligations"). The Debtors pay their Employees on a bi-weekly  
 22 pay cycle. The total estimated gross amount of the Wage Obligations that will have accrued, but  
 23 remain unpaid as of the Petition Date is approximately \$1,432,523.

24 149. The Debtors are required by law to withhold from their Employees' wages  
 25 amounts related to federal, state, and local income taxes, as well as social security and Medicare  
 26 taxes and to remit the same to the appropriate taxing authorities. To the extent that the Debtors  
 27 have deducted funds from the Employees' paychecks sufficient to pay prepetition taxes,  
 28 withholding taxes, and FICA contributions attributable to Wage Obligations which are due but

1 have not yet been paid to any governmental entity, the Debtors seek authorization to continue to  
2 deduct these funds and pay them to such governmental entities in the ordinary course of  
3 business.

4 150. In addition, the Debtors are required to make matching payments from their own  
5 funds on account of social security and Medicare taxes, and to pay, based on a percentage of  
6 gross payroll (and subject to state-imposed limits), additional amounts to the taxing authorities  
7 for, among other things, state and federal unemployment insurance. The Debtors seek  
8 authorization to continue to pay these funds in the ordinary course of business.

9 151. In the ordinary course of processing payroll checks for their Employees, the  
10 Debtors also withhold certain amounts for various garnishments (such as tax levies, child  
11 support, payments to bankruptcy trustees, and student loans) (collectively, the "Garnishments"),  
12 which amounts have not yet been forwarded to the respective law firms and government agencies  
13 who are tasked with collecting the funds. The Debtors request permission to pay over any such  
14 withholdings in the ordinary course of business.

15 152. In the ordinary course of their businesses, the Debtors have accrued amounts for  
16 employee contributions to 401(k) retirement plans, and various health and welfare benefit  
17 programs for their Employees prior to the Petition Date (collectively, the "Employee Benefit  
18 Plans").<sup>47</sup> These benefits include health plans (i.e., medical, dental, and vision), various welfare  
19 plans (i.e., life insurance, disability insurance, accidental death and dismemberment insurance,  
20 long-term care and critical illness insurance), and other employee assistance programs. These  
21 employee benefit contributions (the "Employee Benefit Contributions") are an integral part of the  
22 compensation to which the Employees are entitled. The total amount of Employee Benefit  
23 Contributions that will have accrued, but will remain unpaid as of the Petition Date is estimated  
24 to be less than \$17,000.

25 153. The Debtors also permit Employees to accrue various paid time off, pursuant to  
26 which Employees are eligible, in certain circumstances, to receive their full wages for, among

27 <sup>47</sup> The contributions are tendered at the sole discretion of the Employees and as such, the contributions may be  
28 terminated at anytime at the direction of the Employees.

1 other things, vacation and/or personal days, among other matters (the "Vacation Accruals"). The  
2 total amount of Vacation Accrual that will have accrued but will remain unpaid prior to the  
3 Petition Date is estimated to be less than \$720,000.

4 154. In the ordinary course of their employment, certain authorized Employees may  
5 have used their own personal credit cards or expended their own personal funds on behalf of and  
6 for the benefit of the Debtors (the "Reimbursable Business Expenses"). As of the Petition Date,  
7 Employees may not have been reimbursed for these Reimbursable Business Expenses. Although  
8 a definitive amount of Reimbursable Business Expenses as of the Petition Date cannot be  
9 provided, but based upon prior business practices, it is estimated that the amount does not exceed  
10 \$5,000.

11 155. Chapter 11 Cases were filed during the Debtors' normal payroll periods for hourly  
12 and salaried Employees. Employees rendered services and incurred Reimbursable Business  
13 Expenses in anticipation of receiving their standard compensation and reimbursements; however,  
14 as of the Petition Date, such obligations are unpaid and unreimbursed.

15 156. If the Debtors are unable to take the necessary steps to ensure that wages and  
16 related obligations are paid for the pay period commencing immediately prior to the Petition  
17 Date and concluding post-petition, there is a significant risk that large numbers of essential  
18 Employees will resign and that those Employees who remain will be discontented and  
19 demoralized.

20 157. All of the Debtors' operations subject to the Wages Motion all qualify as self-  
21 insured employers pursuant to NRS Chapters 616A through 617, and their Employees are  
22 covered under their respective Certificate of Qualification issued April 1, 1995 for self-insured  
23 worker's compensation. The self-insured status results in substantial cost savings to the Debtors.  
24 the Debtors must satisfy several statutory and administrative code conditions to maintain their  
25 self-insured status. In particular, the Debtors must administer and pay all worker's compensation  
26 claims fairly and promptly, including such claims that arose prepetition, and must maintain with  
27 the State of Nevada, Department of Business and Industry, Division of Insurance, a security  
28 deposit, evidence of a surety bond, and evidence of excess insurance as more specifically



1 provided by law. Thus, the settlement and payment of workers' compensation claims, and the  
 2 maintenance of deposits, surety bonds, and excess insurance, are ordinary course activities for  
 3 the Debtors.

4 158. The Debtors have sufficient cash on hand and in their bank accounts to honor all  
 5 of the foregoing employee related obligations as set forth herein. The Debtors' operations are  
 6 currently cash flow positive, prior to debt service, and the Debtors presently have approximately  
 7 \$12 Million either in cash or in their bank accounts as of the Petition Date.

8 159. By this Motion, the Debtors seek authority to pay and/or honor the obligations  
 9 described herein to their Employees. The aggregate of Wage Obligations and Vacation Accrual  
 10 to be paid to or for the benefit of each of the Employees pursuant to this Motion will not exceed  
 11 the \$10,950 per Employee cap in Section 507(a)(4). Similarly, the aggregate of Employee  
 12 Benefit Contributions to be paid to or for the benefit of each of the Employees pursuant to this  
 13 Motion will not exceed the \$10,950 per Employee cap in Section 507(a)(5).

14 160. Continued payment of Wage Obligations, Employee Benefit Contributions, and  
 15 Reimbursable Business Expenses, as well as honoring Vacation Accrual, and maintaining its  
 16 worker's compensation system, are essential to preserve the morale and to maintain positive  
 17 relations between the Debtors and their Employees, as well as to allow them to continue  
 18 operating. If the relief requested herein is not granted, the success of the Debtors'  
 19 reorganizations will be placed in substantial jeopardy. Thus, the relief requested in this Wage  
 20 Motion is in the best interests of the Debtors' estates, creditors, and parties-in-interest.

21 **H. Motion Determining That Adequate Assurance Has Been Provided To The Utility**  
 22 **Company.**

23 161. In the ordinary course of their businesses, the Debtors incur utility expenses for  
 24 water, sewer service, electricity, gas, telephone service, internet service, and waste management.  
 25 These utility services are provided by the utilities (as such term is used in Section 366,  
 26 collectively, the "Utility Providers") listed on Exhibit "1" (the "Utility Service List") to the  
 27 Emergency Motion Pursuant To 11 U.S.C. §§ 105(a) And 366 For An Order Determining That  
 28

1 Adequate Assurance Has Been Provided To The Utility Companies (the "Utility Motion") filed  
2 contemporaneously herewith.

3 162. On average, the Debtors collectively spend approximately \$442,300 each month  
4 on utility costs. As of the Petition Date, the Debtors believe they are substantially current on  
5 their utility payments as set forth on the Utility Service List.

6 163. Preserving utility services on an uninterrupted basis is essential to the Debtors'  
7 ongoing operations and, therefore, to the success of their reorganization. Any interruption of  
8 utility services, even for a brief period of time, would disrupt the Debtors' ability to continue  
9 servicing their customers, thereby negatively impacting customer relationships, revenues and  
10 profits. Such a result could jeopardize the Debtors' reorganizations efforts and, ultimately, value  
11 and creditor recoveries. It is therefore critical that utility services continue uninterrupted during  
12 these Chapter 11 Cases.

13 164. The Debtors intend to pay postpetition obligations owed to the Utility Providers in  
14 a timely manner. The Debtors expect that they will have ample liquidity, based upon cash on  
15 hand and cash flow from operations, to pay their postpetition obligations to their Utility  
16 Providers. Specifically, the Debtors' operations are currently cash flow positive, prior to debt  
17 service, and the Debtors presently have approximately \$12 Million either in cash on hand or in  
18 their bank accounts as of the Petition Date.

19 165. To provide additional assurance of payment for future services to the Utility  
20 Providers, the Debtors have deposited \$225,000 (a sum equal to more than approximately 50%  
21 of the Debtors' estimated cost of their monthly utility consumption) into a separate, interest-  
22 bearing account (the "Utility Deposit Account"). The Utility Deposit Account will provide still  
23 further assurance of future payment, over and above the Debtors' ability to pay for future utility  
24 services in the ordinary course of business based upon their existing cash on hand and cash flow  
25 from operations (collectively with the Utility Deposit Account, the "Proposed Adequate  
26 Assurance"). The Debtors submit that the Proposed Adequate Assurance provides protection  
27 well in excess of that required to grant sufficient adequate assurance to the Utility Providers.  
28

166. The proposed Procedures set forth in the Utility Motion are necessary for the Debtors to carry out their reorganization efforts. If they are not approved, the Debtors could be forced to address a host of requests by their Utility Providers in a disorganized manner during the critical first weeks of their reorganization. Moreover, the Debtors could be blindsided by a Utility Provider unilaterally deciding--on or after the thirtieth day following the Petition Date--that it is not adequately protected and discontinuing service or making an exorbitant demand for payment to continue service. Discontinuation of utility service, particularly electricity at any given Casino, could essentially shut down operations, and any significant disruption of operations could put the Debtors' reorganization efforts in jeopardy.

167. Prior to the Petition Date, the Debtors used their best efforts to contact all of their Utility Providers and get specific and personal contact information (i.e., not just the general Post Office box where payments are remitted) where notices of bankruptcy and this Motion could be sent, including but not limited to fax and e-mail addresses to allow for immediate delivery when such information was available. This specific delivery information is reflected on Exhibit "2" to the Utility Motion under the column labeled "Address to Serve Utility Motion," whereas the general addresses for remittance of monthly payments is reflected in the column labeled "Remit Address." As such, the Debtors have used their best efforts under the circumstances to provide Utility Providers notice of this Motion and the proposed Procedures going forward.

**I. Application For Order Limiting Notice Pursuant To Bankruptcy Rule 2002(m) & (l).**

168. The Debtors approximate that collectively there are more than 18,000 parties-in-interest (the "Parties-In-Interest") among the Bankruptcy Cases.

169. Dating back to 2006, the Debtors have employed over 4,000 other persons (the "Former Employees"). With the exception of a few Former Employees who have previously asserted claims against the Debtors, the Debtors do not believe that the Former Employees have any claims against them. However, as the relevant statutes of limitation regarding certain claims have not yet run, the Debtors deem it prudent to provide the 341 notice of the meeting of

1 creditors (the "341 Notice") to their Former Employees, thereby providing them notice of the  
2 Bankruptcy Cases and an opportunity to file a proof of claim.

3 170. Additionally, approximately 6,250 persons ("Timeshare Holders") hold timeshare  
4 interests in certain real property of the Debtors. Although the Debtors do not believe that such  
5 Timeshare Holders have any claims against the Debtors, due to their relationship to the Debtors,  
6 and out of an abundance of caution, the Debtors deem it prudent to provide a copy of the 341  
7 Notice to the Timeshare Holders, thereby providing them with notice of the Bankruptcy Cases  
8 and an opportunity to file a proof of claim.

9 171. Furthermore, dating back to 2006, the Debtors have engaged in over 6,000  
10 business relationships with vendors (the "Vendors"), some of which could conceivably assert  
11 claims against one or more of the Debtors arising out of their present or prior business dealings  
12 with Debtors. As such, the Debtors intend to provide a copy of the 341 Notice to such vendors.

13 172. Other Parties-In-Interest include Casino patrons who are owed winnings as of the  
14 Petition Date, and hotel guests who have paid deposits or room fees for hotel rooms to be  
15 occupied post-petition.

16 173. As the Debtors anticipate that the vast majority of the Parties-In-Interest do not  
17 have claims against one or more of the Debtors, full notices for each hearing and proceeding  
18 throughout the Bankruptcy Cases would present burdensome costs to the estates. As such, the  
19 Debtors strongly believe that the expenditure of large portions of its available resources to notify  
20 all Parties-In-Interest of a proceeding in which they will have no interest is unwarranted under  
21 the circumstances. Permitting the Debtors to solely provide a copy of the 341 Notice to such  
22 Parties-in-Interest provides a cost-effective and viable solution as it provides the Parties-In-  
23 Interest with notice of the Bankruptcy Cases and an opportunity to file a proof of claim and to  
24 participate in the Bankruptcy Cases should they believe that they have a claim.

25 174. To ensure meaningful notice and participation of all Parties-In-Interest, the  
26 Debtors propose the publication of legal notices in both The Spectrum, a newspaper published  
27 daily for circulation in the Southern Utah and Mesquite, NV regions, and the Las Vegas Review-  
28 Journal, a newspaper published daily for circulation in the Southern Nevada region.

1 **J. Motion For Order Authorizing The Debtors To Pay Prepetition Taxes And Fees.**

2 175. In the ordinary course of their business, the Debtors (a) collect and incur taxes,  
 3 including property, sale and use, gaming, franchise, income, business, and other taxes in  
 4 connection with the operation of their business (collectively, the "Taxes"); and (b) collect or  
 5 incur fees and similar charges and assessments (collectively, the "Fees"). The Taxes and Fees  
 6 are payable periodically at various times to various taxing, licensing, and other governmental  
 7 authorities (collectively, the "Authorities"). Certain Taxes and Fees are direct obligations of the  
 8 Debtors, while other Taxes and Fees are collected by the Debtors from hotel and casino  
 9 customers or other parties and are held until remitted for the benefit of the Authorities.

10 176. In the ordinary course of business, the Debtors collect and incur various Taxes  
 11 and Fees, which are payable to the appropriate Authorities. Taxes and Fees are paid at different  
 12 times depending on the frequency of when each Tax and Fee must be remitted, and are paid to  
 13 the relevant Authority in accordance with each Authority's requirements, including payments  
 14 made by check or by electronic fund transfer. These Taxes and Fees include the following:

15 a. Real and Personal Property Taxes. The Debtors own a substantial amount of real  
 16 and personal property located in Nevada and Arizona that is subject to state and local property  
 17 taxes (collectively, "Property Taxes"). Within Arizona, Property Taxes are normally determined  
 18 on an annual basis and paid in arrears. Therefore, Property Taxes may accrue long before they  
 19 are actually due. Within Nevada, Property Taxes are normally determined on an annual basis  
 20 and are paid in advance. Failure to pay Property Taxes in the ordinary course of business may  
 21 result in the imposition of statutory liens on the Debtors' real and personal property. The Debtors  
 22 estimate that as of the Petition Date, approximately \$5,900 in Property Taxes are accrued but  
 23 unpaid.

24 b. Sales Taxes. The Debtors collect from customers or incur an assortment of state  
 25 and local sales taxes (collectively, the "Sales Taxes"), and remit the Sales Taxes to the  
 26 appropriate Authorities. Sales Taxes accrue as tangible goods and services are invoiced to  
 27 customers and are calculated based on a statutory percentage of the sale price invoiced to the  
 28 customer. If such taxes are not remitted to the Authorities on a timely basis, the Authorities

1 often impose personal liability on officers of a corporation. The Debtors remit Sales Taxes on a  
2 monthly basis. The Debtors estimate that as of the Petition Date, approximately \$135,000 in  
3 Sales Taxes are accrued but unpaid.

4 c. Use Taxes. The Debtors may be responsible for payment of use taxes ("Use  
5 Taxes") when they purchase certain tangible personal property for use in a jurisdiction where the  
6 acquisition of such property is taxable, but Sales Tax was not charged by the vendor. In such  
7 instances, the Debtors are responsible for assessing upon themselves and paying the Use Taxes  
8 when applicable. If such taxes are not remitted to the Authorities on a timely basis, the  
9 Authorities often impose personal liability on officers of a corporation. The Debtors estimate  
10 that as of the Petition Date, approximately \$10,600 in Use Taxes are accrued but unpaid

11 d. Gross Receipts Taxes. The Debtors may be responsible for payment of gross  
12 receipts taxes and/or business and occupation taxes (collectively, "Gross Receipts Taxes") which  
13 are levied against the seller of goods or provider of services. The Debtors estimate that as of the  
14 Petition Date, approximately \$189,029 in Gross Receipts Taxes are accrued but unpaid, which  
15 sum is comprised of approximately \$68,529 in business taxes and \$120,500 in room taxes.

16 e. Franchise and Income Taxes. The Debtors may be responsible for payment of  
17 certain franchise taxes and income taxes (collectively, "Franchise and Income Taxes") to the  
18 Authorities. Franchise and Income Taxes have been paid through February 2010 in accordance  
19 with the requirements of the applicable taxing jurisdiction. Thus, the Debtors estimate that as of  
20 the Petition Date, no Franchise and Income Taxes that have accrued remain unpaid. However,  
21 out of an abundance of caution, the Debtors seek authorization to pay any accrued, but unpaid  
22 Franchise and Income Taxes that may subsequently be assessed.

23 f. Business Taxes, Including Gaming Taxes, and License Fees. The Debtors are  
24 required to obtain business licensing and pay corresponding business licenses fees to remain in  
25 good standing for the purposes of conducting the Debtors' business. Additionally, taxes are  
26 assessed to the Debtors or to the Debtors' customers for services provided in the Debtors'  
27 business, including hotel, entertainment, liquor, gaming, and similar taxes. In accordance with  
28 applicable authorities, gaming tax obligations are prepaid in three month rolling estimates.

1 Provided such requirements, the Debtors estimate that, as of the Petition Date, they owe  
2 approximately \$380,000 on account of pre-petition gaming, and taxes.

3 g. Miscellaneous Taxes and Fees. Various state and local laws may require the  
4 Debtors to obtain and pay fees for a wide range of licenses and permits from a number of local,  
5 state, and federal regulatory agencies. The amount owed, if any, for these taxes and fees is de  
6 minimis. To the extent there are pre-petition amounts outstanding with respect to these taxes and  
7 fees, the Debtors request the authority to pay such amounts.

8 177. Paying the Taxes and Fees will benefit the Debtors and their creditors by allowing  
9 business operations to continue without operation, interference, or distraction, and to allow the  
10 Debtors to operate their respective Bankruptcy Cases without interference from the Authorities.  
11 Therefore, there is a valid business justification for payment of Taxes and Fees in the ordinary  
12 course of business.

13 178. Payment of Taxes and Fees will also benefit the Debtors and their creditors by  
14 allowing the Debtors to continue operations without interruption and by reducing the amount and  
15 priority of claims to be asserted against the Debtors' estates. The relief requested in the Motion  
16 For Order Authorizing Debtors To Pay Pre-Petition Taxes And Fees Pursuant To 11 U.S.C. §§  
17 105(a), 363(b), 507(a)(8), And 541(d) is integral to the continuing operation of the Debtors'  
18 businesses and their successful reorganization, and is in the best interests of the Debtors, their  
19 estates, and their creditors.

20 I declare under penalty of perjury of the laws of the United States that these facts are true  
21 to the best of my knowledge and belief.

22 DATED this 1st day of March, 2010.

23   
24 SEAN MCKAY  
25  
26  
27  
28